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2
3 CONSTITUTIONAL CONVENTION
4 OF THE
5 STATE OF MARYLAND
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10 Chamber of the House of Delegates
11 State Capitol
12 Annapolis, Maryland
13 January 4, 1968 - 10:45 a. m.
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17 HONORABLE H. VERNON ENEY,
18 PRESIDENT
19

20 Reported by:
21 D. Fitzgerald
and
C. Hunt

Thompson

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1 THE PRESIDENT: The Sergeant at Arms will clear
2 the aisles and close the doors.

3 The invocation today will be offered by the
4 Reverend Dean Kesler of the Baldwin Memorial Methodist
5 Church at Millersville, Maryland.

6 REVEREND KESLER: Eternal God, whose years have
7 no beginning or ending, look down upon us as we begin this
8 year and this day. Sustain us with Thy grace as our feet
9 trod the uncertain way of the future. The wisdom with which
10 Thou dost endow us will determine the outcome of many issues.
11 Our minds must grapple with many perplexing problems. With
12 Thy Divine Leadership we are sure to arrive at the right
13 answers to the many thorny issues which lie ahead.

14 This morning we are conscious of the cloud of
15 witnesses who surround us on every side. Some of these
16 look down upon us for "the spacious firmament on high." They
17 passed to us the torch whose light has guided the great
18 State of Maryland for a hundred years. We are also con-
19 scious of the host with whom we rub shoulders each day.
20 They look to this hall as the place where there is being
21 constructed the road over which the great Free State will



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1 travel for the next 100 years.

2 Upon this Constitutional Convention, we pray
3 Thou, Almighty God, will pour Thy wisdom upon all who have
4 participated in its workings. Especially give understanding
5 to the presiding officer and chairmen of the various
6 committees. Pour out Thy strength upon all who are trusted
7 with authority, upon whom rest the heavy burdens and
8 responsibilities of vital decisions which will affect the
9 lives of millions yet to be born.

10 Guide us, lead us, and bless us with Thy Grace
11 and Mercy, we ask in the name of the Lord of Host. Amen.

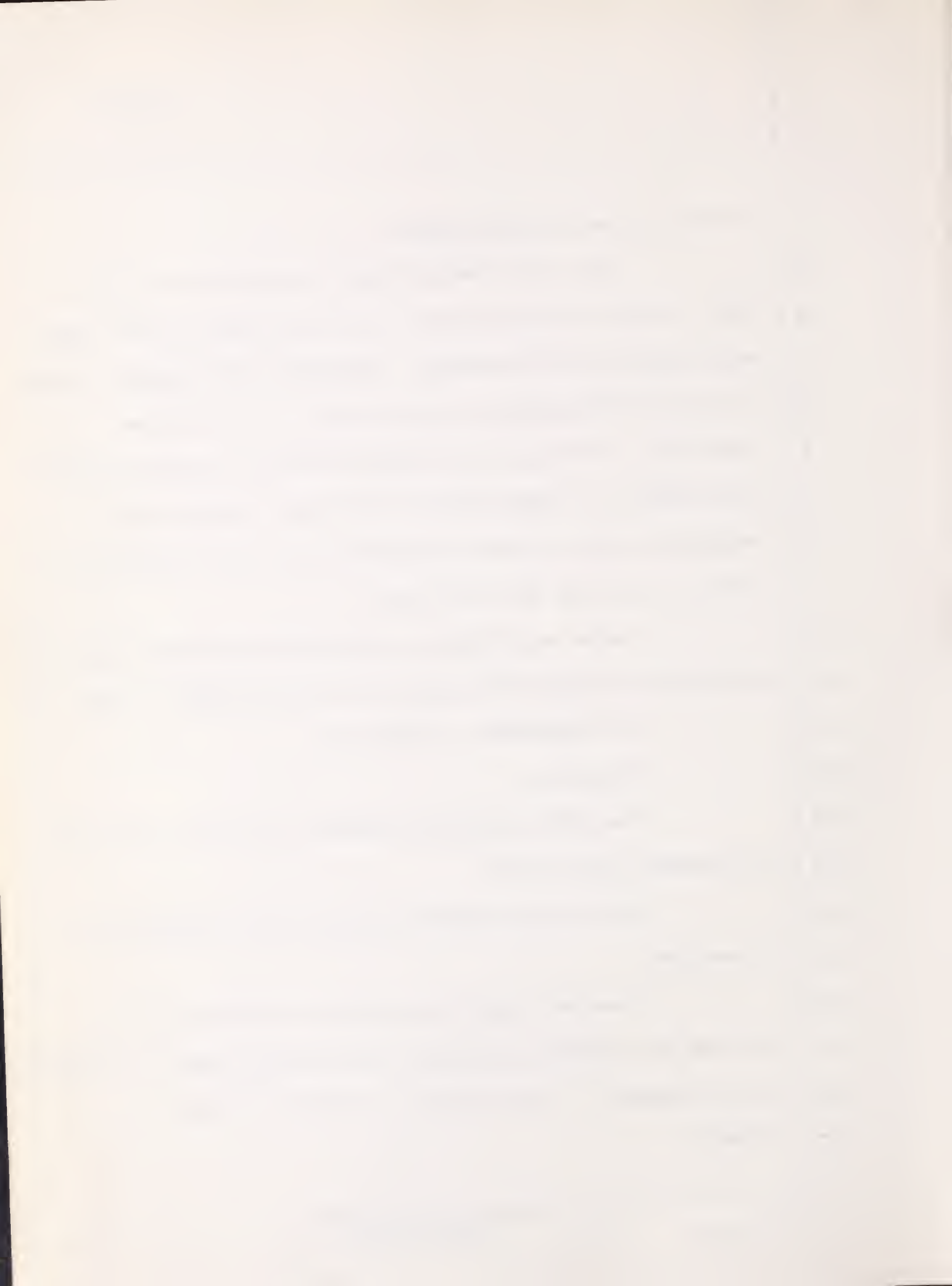
12 THE PRESIDENT: Thank you.

13 Rollcall.

14 Has every delegate answered rollcall? The Clerk
15 will record the rollcall.

16 There being a quorum present, the Convention is
17 in session.

18 I am very sorry to inform you that early this
19 morning the father of Delegate Malkus passed away in Baltimore
20 quite suddenly. I will ask us to observe a moment of
21 silence.



1 (The Convention observed a moment of silence.)

2 THE PRESIDENT: The Chair recognizes Delegate
3 Powers.

4 DELEGATE POWERS: Mr. President, I move the
5 adoption of today's calendar.

6 (The motion was duly seconded.)

7 THE PRESIDENT: All in favor signify by saying
8 Aye; contrary, No.

9 The Ayes have it and it is so ordered.

10 On December 30, Resolution No. 26 was introduced
11 and referred to the Committee on Calendar and Agenda. Some
12 revision of the resolution was thought desirable and rather
13 than print the original and then have it substituted or an
14 amendment substituted, the Chair would be inclined to sub-
15 stitute the revised copy for the original with unanimous
16 consent.

17 Is there any objection to substituting the revised
18 copy of Resolution 26 in lieu of the original introduced on
19 December 30, 1967?

20 Delegate Burdette.

21 DELEGATE BURDETTE: I am not quite sure what this

1 resolution is.

2 THE PRESIDENT: A resolution to provide for post-
3 Convention activities, Committee on Public Information, staff
4 and officers to carry out the program of public information
5 and to conclude the business of the Convention sine die,
6 to preserve its files, records, transcripts, et cetera. It
7 has not been acted upon.

8 DELEGATE BURDETTE: I should like to have an
9 opportunity to read the resolution before we act on it.

10 THE PRESIDENT: The resolution has not been acted
11 upon.

12 DELEGATE BURDETTE: I realize that. I don't have
13 a copy.

14 THE PRESIDENT: I understand. The request that
15 the Chair just made was to substitute the revised copy which
16 is the one you will be asked to act upon so it can be printed
17 and circulated to you.

18 DELEGATE BURDETTE: I thought it just possible in
19 our haste we might go ahead and act on it. In that case I
20 would like to reserve my right to read the resolution.

21 THE PRESIDENT: No. The idea is to have it



1 printed and circulated. There being no objection, the Clerk
2 will make the substitution and have the resolution printed
3 and circulated as soon as possible.

4 Are there any reports of committees?

5 MR. QUILLEN: No reports of committees.

6 THE PRESIDENT: Are there any motions or resolu-
7 tions?

8 The Chair hears none.

9 The Chair recognizes Delegate Powers.

10 DELEGATE POWERS: Mr. President, I move that the
11 Convention resolve itself into a Committee of the Whole for
12 the purpose of considering general orders of the day,
13 specifically Committee Recommendation GP-13, Transition
14 Provisions and Schedule of Legislation.

15 THE PRESIDENT: Is there a second? All in favor
16 signify by saying Aye; contrary, No.

17 The Ayes have it and it is so ordered.

18 (Whereupon, at 10:55 a.m., the Convention resolved
19 itself into the Committee of the Whole.)

20 (The mace was removed by the Sergeant at Arms.)

21 THE CHAIRMAN: The Committee of the Whole will

1 please come to order.

2 We will resume consideration of GP-13. The
3 Chair requests that the same group assemble at the Clerk's
4 desk, Delegate Hardwicke, Delegate Boyer.

5 While the group is assembling, I would like to
6 make a few comments about the Transitional Provisions.

7 While this is a separate schedule, it is in-
8 cluded in this one committee recommendation for convenience
9 and some of the delegates required yesterday, not having had
10 a chance to read that thought, the whereabouts of the
11 Schedule of Legislation. It begins on page 15 of the blue
12 copy, GP-13, so that the first 14 pages constitute the
13 Schedule of Transitional Provisions, and then from pages 15
14 to 30 constitute the Schedule of Legislation.

15 I would like to make another observation con-
16 cerning these schedules. Part of it is a repetition, but it
17 is very important that you keep it in mind. The Schedule
18 of Transitional Provisions is in every respect a part of the
19 Constitution. It has the same dignity, it has the same
20 inviolability, it can be changed only in the same manner as
21 the Constitution itself can be changed. It is not subject to

1 change or alteration by the General Assembly. It takes
2 effect immediately upon adoption of the Constitution.

3 The Schedule of Legislation, on the other hand,
4 while it has the same dignity in the sense that it is
5 adopted by the people, just as a law would be adopted by the
6 people on referendum, it nevertheless by its express terms
7 is subject to alteration by the General Assembly. So that
8 the Schedule of Legislation adopted on May 14, 1968, when
9 the Constitution is adopted, could be changed in every
10 particular by the General Assembly on May 15, 1968, or any
11 day thereafter. If it is not changed, it remains in effect
12 indefinitely just as does a law enacted by the General
13 Assembly. In other words, it has no termination. Some of
14 its provisions would expire simply because they are couched
15 in temporary language and say for instance that until such
16 and such a day thus and so shall be the case.

17 The Schedule of Legislation ultimately will be
18 included in the Code of Public General Laws as a part of the
19 statute law of the State, not as a part of the Constitution,
20 so although it is adopted by the same vote as the Constitu-
21 tion is adopted, and although it is adopted by the people,

1 when it appears in the books, the official publications of
2 the State, it will not be published with the Constitution.
3 Undoubtedly the publisher will have a footnote to indicate
4 where it will be, but the various sections of the Schedule
5 of Legislation will be included in the code at varying
6 places, wherever appropriate.

7 Now let me call to your attention one other thing
8 that I think it is imperative that we have in mind. We are
9 behind the schedule that we set for ourselves in that I had
10 hoped that we would have concluded consideration of the
11 Schedule of Legislation by last evening and that we would be
12 in recess today so that the Committee on Style could be
13 getting ready for our consideration the corrected copies of
14 the Constitution and have it ready for third reading tomorrow.
15 This obviously cannot be done. This is not a matter that
16 puts us in a desperate situation. It means that in all
17 probability we will have a session on Saturday. I hope that
18 it will not be necessary to have one Sunday, but it will be
19 imperative that we continue without any days of recess
20 until we reach the final vote.

21 This presents a number of mechanical difficulties.



1 We are doing everything we can to overcome them. One of
2 them is to get a complete copy of the draft Constitution as
3 adopted on the second reading and obviously it would be very
4 helpful to have that in front of you right at this moment
5 while you are considering this schedule.

6 There has been completed by the staff an entire
7 draft of the Constitution and at this moment -- as a matter
8 of fact, since 8 o'clock this morning -- a large group of
9 people on the staff have been working to get on the type-
10 writer a revised copy of the Constitution as adopted on
11 scheduling and showing the changes made on second reading.

12 We could have given you a little more quickly a
13 clean copy that did not show the change.

14 It seemed to me that the delegates, in order to
15 know just what they were doing and because of the tremendous
16 volume of work that we have been accomplishing in the past
17 few days in speed, would like a chance to see in black and
18 white what we did on second reading. This means a great
19 deal of delay in preparing the typewritten copy because in
20 order to type in language which was stricken out and then
21 strike it out and then type in in italics the new language,

1 this necessarily slows down the stenographer enormously, but
2 in addition it means the task of proof reading is greatly
3 increased. This work is proceeding. A battery of steno-
4 graphers are at this moment typing it. Just as soon as they
5 have concluded any article and it can be sent to a print
6 shop, this will be done. I suspect sometime this morning it
7 would be distributed and on your desk, the first installment,
8 the first article, and we are trying to run them in the
9 order of articles so that you will have them in front of you.

10 There is a cautionary sheet, and I ask you please
11 to observe that the sheet calls attention to the fact that
12 this is a preliminary draft, not preliminary in the sense
13 of action by the Convention but preliminary in the sense
14 that it represents action by the staff, that they are not
15 satisfied as being thoroughly and completely checked. It
16 is therefore not for publication. I don't mean for that that
17 it is secret. I mean by that I would not want some weekly
18 newspaper, for instance, that isn't in daily touch with us
19 to receive a copy of this and publish it as a draft of the
20 Constitution. It is inevitable that there are errors. It
21 takes careful checking and verifying the action on second

1 reading to pick up the modifications that are made orally,
2 the amendments, as I am sure all of you understand, a really
3 tremendous job. It is time-consuming, it is slow work, so
4 please regard what you will receive this morning as not
5 being error-free. I think it is sufficiently accurate to give
6 you a pretty clear picture of what has been done.

7 Now, two other observations. The committee
8 recommendation which you have before you now is, of course,
9 important. It is a part of our task. It is important that
10 the provisions be correct. It is not nearly so important
11 that we be concerned with the niceties of language, and I
12 suggest to you that whereas it was entirely proper for us
13 to spend a great deal of time in debating "shall" and "may"
14 and whether the words expressed exactly the thought that we
15 were trying to express in the Constitution itself because
16 we were drafting a document that would stand for many years
17 and that would have to cover situations that we could not
18 possibly foresee and think of. We had to try to think of
19 all situations. That is not the situation with the Schedule
20 of Transitional Provisions or the Legislation. While the
21 Schedule of Transitional Provisions cannot be changed or

1 altered by the Legislature, they are all of a temporary
2 character so you are not concerned with unknown situations
3 that might arise in the distant future. You are concerned
4 only with temporary situations that exist, not that you can
5 foresee, that you can know about and that have an existence
6 for a period at most of three or four years.

7 I would therefore urge you not to take time
8 either in asking questions or suggesting changes that are
9 purely stylistic unless there is real doubt as to the mean-
10 ing. I don't think we need be concerned with that in this
11 schedule. It is a terrifically long schedule. It is com-
12 plicated. It is imperative that you understand it. But it
13 is not necessary that we be so concerned about the refine-
14 ment of the language as in the Constitution itself.

15 This is even more true of the Schedule of
16 Legislation. **Remember** that the Schedule of Legislation can
17 be changed by the Legislature the next day and, in addition
18 to that, if there is even a grievous error in the Schedule
19 of Legislation it is not calamitous. The Legislature can
20 correct it.

21 We are trying to include in the Schedule of

1 Legislation only two categories of cases, one where there
2 are provisions in the present Constitution which, although
3 in the Constitution, are really statutory in character and
4 we have omitted it. The Legislature has not yet had an
5 opportunity to enact these provisions as statutes so we do
6 it for them temporarily.

7 The second category of cases is, because of
8 provisions we have inserted in the new Constitution, the
9 Legislature cannot act by legislation because of some
10 prohibition for at least some period of time. Now there are
11 two illustration of this in the schedule. One is a provision
12 fixing the salary of the members of the General Assembly.
13 We have to put this in the legislation because we have
14 provided in the Constitution that the members of the General
15 Assembly shall fix their own salaries but have prohibited
16 the members of the Legislature from changing salaries for the
17 term during which the salaries are fixed.

18 Unless we put something in the schedule, there
19 will be no means by which the salary can be fixed for the
20 term of the legislatures in 1970.

21 Similarly, it is necessary that we put in a

1 provision fixing the governor's salary for instance, be-
2 cause we have done two things. We have taken out of the
3 Constitution the provision fixing the governor's salary so
4 unless we put it in the Constitution, the governor would
5 receive no salary. Secondly, we have provided in the Con-
6 stitution that the salary of the Governor and other public
7 officers cannot be increased during their term of office,
8 so that we have effectively prevented the Legislature, if an
9 increase were deemed proper in the next three or four years,
10 from making that increase unless we do it, so that this kind
11 of provision is essential.

12 Please keep in mind that the enabling act which
13 defines the cases in which we are authorized to adopt
14 legislation provides that we can adopt legislation which
15 must be adopted before the next session of the Legislature.
16 It does not say before the next regular session of the
17 Legislature so that you should not in considering the
18 Schedule of Legislation be considering whether or not the
19 Legislature could act or should act before January 1969.
20 If the Legislature can act in May of 1968 then we have no
21 authority to act.

1 Now, if you will keep these principles in mind I
2 think that both the questioning and the deliberation will
3 proceed much more rapidly.

4 At the suggestion of a number of delegates, we
5 will depart from our usual practice. Instead of having
6 sections or articles considered and then questions as to
7 that, we will have the presentation of the entire schedule
8 of the entire Transitional Provisions and the entire
9 Schedule of Legislation before there are any questions.
10 This will give you a bird's eye picture of the whole thing.
11 The reason for this is that almost inevitably when you read
12 one of the earlier provisions, a question pops into your
13 mind. It is answered later on, but if you stop and ask it
14 now, we lose a lot of time.

15 I don't mean by these comments to depart at all
16 from what I said several days ago because we wanted to have
17 a full explanation -- I mean rather that the kind of ex-
18 planation we hope to give you will have you better able to
19 understand the full document.

20 Delegate Boyer, will you proceed, or Delegate
21 Hardwicke.

1 Delegate Hardwicke.

2 DELEGATE HARDWICKE: I think last evening we
3 pretty well had a general discussion of the first eight
4 sections and therefore unless there is some objection I
5 propose to commence on page 4 of the blue sheet, the
6 committee recommendation, at Section 9 and just cover in a
7 very broad way the matters set forth in these sections. And
8 if you will follow along with me on the white memorandum on
9 page 5 which is a section-by-section explanation of the
10 committee recommendation, I think that you can answer a lot
11 of the question you have in your own mind by referring to the
12 white memorandum.

13 Section 9 makes it clear that the governor,
14 lieutenant governor, attorney general and comptroller who
15 will be in existence under the new Constitution will stand
16 for election on the first Tuesday in November of 1970.

17 Section 10 preserves in office the governor, the
18 attorney general and comptroller and the treasurer until
19 their terms expired, which is January 6, 1971.

20 Now, of course, as I think this was explained at
21 the time we went through these, there is a slight discrepancy

THE HISTORY OF THE CITY OF BOSTON

FROM THE FIRST SETTLEMENT IN 1630 TO THE PRESENT TIME
BY
JOSEPH NEALE
OF THE BOSTON BAR
IN TWO VOLUMES
VOL. I.
BOSTON: PUBLISHED BY J. NEALE, 1845.

The first settlement in Boston was made in 1630, by a company of Puritan settlers, who came from England, and were led by John Winthrop. They founded the city of Boston, and it has since grown into one of the largest and most important cities in the United States. The city has a long and rich history, and has played a significant role in the development of the nation. It has been the site of many important events, and has produced many notable figures. The city is known for its harbor, its universities, and its cultural institutions. It is a city of great beauty and interest, and is well worth a visit.

1 of a couple of weeks in these offices. This language will
2 continue them all until the same date.

3 Section 11 makes it clear there will not be a
4 lieutenant governor until January 6, 1971.

5 Section 12 makes it clear if the governor should
6 die or become disabled prior to the time that we have a
7 lieutenant governor, the present method of succession in the
8 office of the governor will be continued.

9 Section 13 was taken from the body of the Executive
10 Article which provides the mechanism whereby there shall be
11 a reorganization of the Executive Branch and provides, as
12 you will recall, for action by the General Assembly and, if
13 the General Assembly fails to act, for action by the
14 governor.

15 Section 14 continues in effect the Board of Public
16 Works as a constitutional board until January 6, 1971. You
17 will recall that the prior Constitution has very skimpy and
18 to some extent antiquated duties for the Board of Public
19 Works, that the Board of Public Works is basically the
20 statutory board, as it is, but we, to do a minimum of
21 violence, have continued their present constitutional

1 functions until January 6, 1971.

2 Section 15 -- these sections, you will notice,
3 refer back to the sections that are referred to. 4.06 and
4 4.11 relate to the gubernatorial succession and provide that
5 those provisions for the governor being succeeded by the
6 lieutenant governor and so forth, that all of those provisions
7 will not go into effect until January 6, 1971. So until that
8 date the governor will be succeeded by the president of the
9 Senate pursuant to the terms of the existing Constitution.

10 Section 4.20 relates to the duties of the
11 comptroller. As you know, the duties of the comptroller are
12 not set forth at great length in the new Constitution, and
13 this Section 4.20 which sets forth the duties of the
14 comptroller, that section is deferred until date of January
15 6, 1971, at which time there would be a comptroller elected
16 pursuant to the November elections of 1970.

17 So much for the Executive Article.

18 Now, in the Judicial Branch, let me point out
19 some things of a general nature and then I will skip over
20 this and we will come back to it in more detail in our
21 section-by-section discussion.

1 First of all, when this Constitution goes into
2 effect on July 1, 1968, it is our expectation that the
3 three higher courts in the three upper tiers -- that is to
4 say in the Court of Appeals, the intermediate appellate
5 courts and the superior courts will be merely the same
6 courts as now exist. The judges in the equivalent court as
7 now exist will simply be transferred to the new court
8 structure, so as far as the three upper tiers are concerned,
9 the Court of Appeals, the Intermediate Court of Appeals,
10 and the Superior Court -- all of the judges occupying the
11 Court of Appeals, the Intermediate Appellate Court, and the
12 circuit court in the several counties, all of those judges
13 will be transferred automatically in the three upper tiers.

14 As to the District Court, quite a few of the
15 sections that are going to follow -- following Section 16 --
16 relate to the problem of transferring the hodge-podge of
17 magistrate courts, People's Courts, and so forth in the
18 lower level of the hierarchy over into the District Court
19 setup.

20 The significant date with regard to the District
21 Court is the date of January 1, 1970, and it is on that date

1 that we expect the new District Court to be organized and
2 functioning. It will in part be staffed by full-time
3 magistrate-level judges now in office. In other words, to
4 the extent that a full-time magistrate is now sitting and
5 meets the qualifications for the new District Court, he will
6 transfer his functions over to District Court and become a
7 District Court judge.

8 To the extent that many of the counties have part-
9 time managers and part-time judicial officers who do not
10 meet the requirements of the new District Court, those
11 judges will be named by the governor and will -- and when
12 the Judicial Appointments Commission comes into being, they
13 will be named by that Commission.

14 So for the three upper tiers we have very little
15 problem.

16 The District Court composes quite a bit of a
17 problem and is set forth in Sections 16 and following.

18 Section 16 is a very important section because
19 it explains a great deal of what we have just said.

20 Section 5.01 shall not become effective as to the
21 District Court until January 1, 1970. The judicial power

vested in the Orphans' Courts as of June 30, 1968, shall continue until January 1, 1971.

In other words, the Orphan's Court will serve out the balance of their term.

The judicial power vested in the justices of the peace, People's Courts, Municipal Courts and the Housing Court of Baltimore County as of June 30, 1968, shall continue until January 1, 1970.

In other words, those courts shall continue until the new District Courts come into effect.

Each of such justices of the peace and each of such courts other than the Orphans' Courts shall have until January 1, 1970, and the Orphans' Courts shall have until January 1, 1971, the powers and jurisdiction vested in each of them, respectively, on June 30, 1968, subject to such change as the General Assembly may prescribe by law.

In other words, these part-time courts, justices of the peace and so forth, will continue until January 1, 1970, then their functions will be transferred to the District Court. The Orphans' Courts keep their functions until January 1, 1971.

1 Now, with that in mind, I think a great many of
2 the items in the following section will fall into line.

3 Section 17 transfers matters in the three higher
4 courts over to the three higher courts in the new four-tier
5 structure.

6 Section 18, the first sentence of Section 5.10,
7 that relates to the jurisdiction of the District Court. All
8 of Section 5.11, that is the composition of the District
9 Court, and all of Section 5.12, that is the commission to
10 take the place of your committee management which shall
11 become effective on January 1, 1970. That is the effective
12 date of the District Court.

13 The balance of this section is a conforming change
14 with regard to your other full-time courts, People's Court,
15 Municipal Court, or the Housing Court of Baltimore County.
16 It makes it clear that these functions will be transferred
17 over to the District Court.

18 Section 19 relates to the Uniform Jurisdiction
19 of the District Court and the uniform jurisdiction of the
20 Superior Court. It provides the uniform jurisdiction of two
21 courts in a four-tier hierarchy. That is not mandatory

1 until January 1, 1971.

2 The last sentence in that section relates to the
3 probate functions which lie in the Circuit Court. It
4 provides that jurisdiction stays in the Circuit Court until
5 January 1, 1970.

6 In the Orphans' Court those judges will be the
7 judges in the three higher tiers of the present judicial
8 powers. In other words, the judges just transfer the name of
9 their court and we continue the same persons in the judicial
10 function.

11 In Section 21, we continue in office the chief
12 judges of the appellate courts.

13 In Section 22, we continue in office the judges
14 of the Orphans' Court.

15 In Section 23 we continue in office the full-
16 time judges in the lowest courts -- that is, the full-time
17 judges, and these full-time judges will become judges in the
18 District Courts.

19 As to the part-time judges, those terms expired
20 on December 31, 1969. That means that in Cecil and Harford
21 and Carroll Counties and so forth where you have part-time

1 magistrates or part-time People's Court judges their terms
2 expire on December 31, 1969. That is when the new District
3 Courts will come into effect. There will be new District
4 Courts appointed in those counties which do not have full-
5 time judges and these District Court judges will have the
6 qualifications of the new Constitution.

7 Section 24 relates to Judicial Qualifications and
8 provides that the judicial qualifications of the new
9 Constitution shall not apply except in the Court of Appeals,
10 Intermediate Appellate Court, and Superior Court.

11 In other words, the new judicial qualifications
12 will not apply on the district level until the District
13 Court comes into existence on January 1, 1970.

14 Section 25 relates to filling vacancies in Court
15 of Appeals, Intermediate Appellate Court or Superior Court.

16 Sections 5.15 and 5.21 relate to the nominations
17 commissions. We suspend the operating effect of the
18 nominating commissions until July 1, 1969. The reason for
19 that is that the machinery establishing the nominating
20 commissions requires one year to become effective. Then we
21 provide that prior to the time that the nominating commissions



1 go into effect that they consist -- in the three highest
2 tiers will be filled by the governor.

3 Section 26, filling vacancies in courts of limited
4 jurisdiction, we provide here that prior to January 1, 1970,
5 which is when the District Courts come into effect, the full-
6 time courts in Baltimore City and in the People's Courts in
7 Ann Arundel, Cecil, Montgomery, Prince Georges, and Wicomico
8 will be filled by judges by appointment. The persons who
9 fill those vacancies have to fill the requirements of the
10 new Constitution.

11 Note the next to the last sentence, "Each person
12 so appointed shall be subject to continuance in office by
13 the procedures and for the term prescribed by Section 5.22 of
14 this Constitution."

15 In other words, the six-year term goes into
16 effect as to these appointments "prior to January 1, 1970,
17 any vacancy occurring for any reason in the office of judge
18 of any other People's Court, Municipal Court or the Housing
19 Court of Baltimore County, or the office of any substitute
20 or part-time People's Court judge in any county or in the
21 office of justice of the peace shall be filled by the

1 governor by appointment of a person qualified to fill such
2 office under the law creating the office or under Section
3 5.14 of this Constitution," but these appointments expire
4 December 1, 1969, when the new District Courts come into
5 effect.

6 Section 27 relates to the full-time judges and
7 provides -- the second sentence is the gist of it -- that
8 these judges in the Court of Appeals and other full-time
9 judges are required -- the ones that are required to stand
10 for retention in office in November of 1968 shall do so for
11 eight-year terms and subject to the conditions of the new
12 Constitution -- that is, in the elections of November of
13 1968.

14 Section 28 pertains to the election of judges who
15 are continued in office and it makes provision for their
16 standing for election at the next general election.

17 Section 29 -- that means after they have completed
18 their regular term.

19 Section 29 relates to judicial retirement and
20 provides that the Judicial Retirement Section does not apply
21 to the Orphans' Court or the part-time judges in the People's

1 Court.

2 Section 30 relates to judicial compensation and
3 provides that the part-time judges are not entitled to the
4 same judicial compensation as the full-time judges. That is
5 a reference accept for the second to the last sentence. The
6 second to the last sentence is that the compensation shall
7 not be reduced while they are in office. That holds. The
8 last sentence provides that their pension shall not be re-
9 duced. That still holds.

10 As to uniformity of compensation, the part-time
11 judges are not entitled to it.

12 Section 31 just makes it clear that the restriction
13 on non-judicial activities does not apply to judges of the
14 Orphans' Courts and other part-time judges.

15 Section 32 holds off the Commission on Judicial
16 Disabilities -- Section 32 does not go into effect until
17 this commission comes into effect.

18 Section 33 provides that the Circuit Court in
19 Baltimore City and the clerk for the Circuit Court of the
20 county shall become the clerk of the Superior Court of the
21 county, and in the case of Baltimore City they will become

1 the Superior Court of Baltimore City. This transfers the
2 function of clerk over to being clerks in the new courts.

3 Section 34, Register of Wills, provides that the
4 office of register of wills terminates on January 1, 1971,
5 as a constitutional officer. Of course, it could be con-
6 tinued as a legislative officer. Such continuation is not
7 inconsistent with the new court setup, and, of course, we
8 have continued the present force of the Constitution with
9 regard to registers of wills until the date of January 1,
10 1971.

11 In other words, that date is to permit the Orphans'
12 Court to serve out their full term along with the register
13 of wills.

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1 Section 35. This is an office that many of you
2 are interested in. It provides for the constitutional
3 office of sheriff will not exist on January 6, 1971, and
4 thereafter. Until that date we will continue the provisions
5 of the present Constitution; Section 36 holds off certain
6 features of the cost of Judicial System until January 1,
7 1970, to coincide with the time that the district court
8 goes into effect.

9 That is a rather quick touch on the Judicial
10 article, you will want to come back to it in more detail.

11 Local Government. Section 37. Section 37
12 provides that: Let me approach it this way, there are
13 two major functions that we are dealing with here. First
14 of all is the prohibition against local legislation that
15 used to be in old 7.05. It is that the General Assembly
16 shall not pass any local legislation.

17 In the second feature that we are dealing with
18 is the shared powers concept of old 7.06. We are providing
19 in Section 37, this is an extremely important section, that
20 the limitation on the General Assembly's passing local
21 legislation as well as the implementation of the shared
powers concept will be suspended until January 6, 1971,



1 unless the General Assembly shall provide an earlier date.

2 In effect, therefore, we are saying that since
3 a number of counties do not have charters and since the
4 time required to get an effective charter or instrument of
5 government may very well take them on into the elections
6 in the fall of 1970, we are saying that there is not going
7 to be a constitutional requirement that the local govern-
8 ment articles go into effect until January the sixth, 1971.
9 It is on that date that your new county executives or
10 county councils or whatever they are going to be called
11 will then take office and the old county commissioners
12 will go out of existence in all of the councils.

13 Section 38 provides that the General Assembly
14 shall by law set up a procedure for the adoption of an
15 instrument of government for the various counties and then
16 it goes on to provide that the General Assembly can have a
17 model charter or model instrument of government and it is
18 this model charter or model instrument which will auto-
19 matically go into effect in the various counties that for
20 one reason or another failed to adopt an instrument of
21 Government in time for the elections of 1970.

1 Section 39 is a provision that once a county
2 has an instrument of government, that the General Assembly
3 shall not enact for that county its local laws and it is a
4 continuation of the effect of the present Constitution with
5 regard to charter counties.

6 Section 40 is set up for the City of Baltimore.
7 I am sure that you are aware of the fact that if the City
8 of Baltimore wishes to issue bonds at the present time,
9 they have got to come to the General Assembly and get approval
10 for any bonds that they issue.

11 We felt that it was unfair to continue this
12 requirement for Baltimore City when none of the charter
13 counties such as Montgomery County or Anne Arundel or
14 Baltimore County have to come to the General Assembly to
15 have their bond issues approved, so the purpose of Section
16 40 is to delete that requirement for the City of Baltimore
17 until such time as old 7.05 and old 7.06 go into effect
18 when it would not be a requirement anyway.

19 It does make clear that the City of Baltimore
20 has to conform to certain other requirements that is as
21 to the amounts of the bonds and the modus of the issue of

1 them which all the other counties have got to conform to.

2 Section 41 deals with a number of miscellaneous
3 items in State finance and taxation. Generally speaking,
4 it deals with the requirement of the uniformity of assess-
5 ments with regard to the Legislature acting to create
6 certain classes for the purpose of taxation, etc.

7 I think if you will look at those sections
8 referred to, that it will be self explanatory.

9 Section 42 is a provision that we have inserted
10 in order to make clear that all of the bonds and other evi-
11 dences of indebtedness authorized by the General Assembly or
12 by any local legislative body prior to the effective date of
13 this Constitution shall be governed by the constitutional
14 provisions and laws in effect at the time of authorization.

15 On page 15, we are dealing with matters of a
16 much lower category, of a much lesser magnitude, and I think
17 that Section 1 under Personal Rights will show you exactly
18 the kind of problem that we have in this schedule.

19 You will remember that we put a provision into
20 the new Constitution which is modeled after the one in the
21 prior Constitution which says that a person shall not hold

1 an office of profit or trust, two of them at the same time,
2 but the old Constitution had a provision that excepted
3 from that prohibition notaries public. We made an exception,
4 but we did not in our draft except notaries public. We made
5 an exception for those categories that the General Assembly
6 might make an exception for so there would be flexibility
7 in the restriction.

8 However, on July 1, 1968, when the new Constitu-
9 tion goes into effect, we don't put Section 1 on page 15
10 those who are notaries public and happen to be members of
11 the General Assembly or hold other offices of profit and
12 trust they would be in violation of the new Constitution
13 and we would have our litigation all over again about
14 notaries public, so that we preserved the right of the
15 notary public to have another office of profit and trust in
16 this section 1 until the General Assembly has an opportunity
17 to act on the subject matter.

18 Delegate Bamberger pointed out we only relate to
19 an office of profit and not trust.

20 Suffrage and elections. When Delegate Koss
21 presented the suffrage and elections article she had

1 Section 2 in with the proposal. This Convention struck it
2 because we thought it was not of constitutional weight.
3 When we struck it, we then struck out the old constitutional
4 provisions with regard to what a referendum had to have in
5 it. We continued the old Constitution in Section 2 so that
6 you would know what a petition had to look like until such
7 time as a General Assembly has the opportunity to pass a
8 statute.

9 Bear in mind that Section 1, Section 2, and all
10 of these sections can be deleted by the General Assembly
11 by law at any time on or after July first. These are all
12 subject to the whim of the Legislature.

13 Section 3 provides for interim provisions for
14 disqualifications from voting and you will note that when
15 we strike down the old Constitution which we are doing, it
16 goes out of effect on July first. We strike out the
17 provisions that are contained in it which say that certain
18 persons, these persons that are set out in Section 3 to be
19 exact, that these persons cannot vote.

20 In order to continue that prohibition until the
21 legislation has an opportunity to act we continued the old

1 Constitution in effect for one year in Section 3. That
2 will give the Legislature an opportunity to set out addi-
3 tional disqualifications.

4 Section 4 is also a statutory measure for the
5 continuance, a procedure for retaining in office judges
6 who are required to stand for election and the procedure
7 under which a judge stands for election. All of this is
8 statutory in nature, but it was in the old Constitution.

9 Bear in mind that when we said that all law in
10 effect on June 30, 1968, when we said that, those laws
11 continued, but when we struck down the existing Constitution
12 then we struck down the matters that are contained in Section
13 4 because it is in the old Constitution and so that there
14 would not be a hiatus or a gap we had to continue these
15 old constitutional provisions by statute.

16 The Legislative Branch, Section 5. We provided
17 in accordance with the recommendation of the Committee on
18 the Legislative Branch that the annual salary of the
19 Legislature be eight thousand dollars and we provided that
20 they would be paid as other State employees twice a month.

21 At the present time, the Legislature is paid

1 four times a year. The reason for that is that when
2 their salary is increased to eight thousand dollars it
3 seems more reasonable to pay them more frequently and also
4 it may be of some assistance to the comptrollers on
5 finances because he can pay them at the same time he pays
6 other State employees.

7 Section 6 continues the present method of
8 filling vacancies which occur in the Legislature because
9 obviously if a vacancy occurs this summer after the
10 Constitution goes into effect, there would not be any
11 procedure and we have to continue the present vacancy
12 until the Legislature has had an opportunity to act.

13 Section 7 is a provision of the old Constitution
14 that states the manner in which a law is passed and how it
15 is presented to the Governor, etc. It is a continuation
16 of an old constitutional provision.

17 In Section 8, as President Eney explained to
18 you earlier, there is this provision with regard to the
19 salary of the Governor must be in here because the present
20 Constitution has the constitutional provision permitting
21 his salary at twenty-five thousand dollars and we felt that

1 we had to include a salary provision and he is paid in the
2 same manner as the General Assembly.

3 Section 9 is a continuation
4 of the present constitutional provisions with regard to the
5 Governor's appointment of officers in the State.

6 Section 10 is the same.

7 Section 11 ^{City Council} contains the constitutional provision
8 with regard to the Secretary of State.

9 Section 12 continues the constitutional provision
10 with regard to vacancies in the office of the State's
11 attorneys.

12 Section 13 continues the constitutional provisions
13 with regard to treasurer and comptroller until the new
14 comptroller goes into office on January 6, 1971, with his
15 new duties.

16 Section 14 is a conforming provision with regard
17 to the Board of Public Works and the Board of Review which
18 provides that the Board of Public Works will continue until
19 its functions are taken over by the Board of Review.

20 Section 15 and thereafter deal with the Judicial
21 Branch. Section 15 is a provision copied right out of the

1 present Constitution with courts of record, that is
2 provided in courts created by our Constitution are courts
3 of record and have a seal.

4 Section 16 is a provision to make it clear that
5 references in the Constitution to the Court of Appeals
6 will mean the Court of Appeals to the new Constitution
7 and so forth. This is just technical.

8 Section 17 continues the appellate circuits
9 set up in the old Constitution.

10 Section 18 is a conforming reference to judicial
11 circuits.

12 Section 19 continues a constitutional provision
13 with regard to the Superior Court in Baltimore City.

14 Section 20 is a constitutional provision with
15 the duties of the clerk of the Superior Court in Baltimore
16 City.

17 Now, Section 21, and I think this is a very
18 important section if you will give me your attention,
19 Section 21 is taken from amendment measure of the Judicial
20 Council and sets out salaries which will be proposed
21 across the board for the four-tier court system. I hope you

1 will take a close look at that.

2 Section 22 is the same legislative council
3 proposal with regard to judicial pensions. Also, it is an
4 attempt to set in a dollar amount with respect to these
5 pensions. There is not contemplated any basic change in
6 what we expect to exist this year.

7 Page 25, Section 23. Section 23 is the present
8 law with regard to pensions of spouses of judges.

9 Section 24 covers a judge who will retire prior
10 to the effective date of the old Constitution and continues
11 his pension by express legislation.

12 Section 25, I think, is self explanatory. It
13 deals with the terms of the initial members of the Commission
14 on initial disabilities. You will remember those were to
15 be stacked or to be set up in staggered terms.

16 Section 26 continues the People's Court of
17 Baltimore City because it was a constitutional court in the
18 old Constitution.

19 Section 27 is the same for the Municipal Court
20 of Baltimore City.

21 Section 28 continues the old Constitution with

THE HISTORY OF THE

REIGN OF

CHARLES THE FIRST

BY

JOHN BURNET

OF

THE UNIVERSITY OF OXFORD

IN TWO VOLUMES

LONDON

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IN TWO VOLUMES

1 regard to the old court dockets and files.

2 Section 29 continues with regard to vacancies
3 in the Orphans' Court.

4 Now, if you will give me your attention on local
5 government, we have here some very important provisions.

6 On Section 30, there is a discrepancy between
7 the blue sheets and the white memorandum. If you will
8 take a look over at the white memorandum you will see that
9 the reference is Section 28, Section 29, and so forth --
10 page 28 of the white memorandum. On that page, page 28,
11 where it says Section 28, change that to Section 30.

12 Change 29 to Section 31.

13 Change Section 30 to Section 32.

14 Change Section 31, to Section 33.

15 Change Section 32 to 34.

16 And change 33 to 35.

17 That is on the white memorandum. In other words,
18 they are all two numbers off.

19 Now, I want to point out in Section 30, we
20 have set out a suggested way in which counties can adopt a
21 charter.

1 Now, old 11A of the prior Constitution had a
2 very, very complicated and time-consuming method pursuant
3 to which counties could adopt a charter.

4 You should read Section 30 very carefully
5 because it provides that the Board of County Commissioners
6 may appoint a charter board and if this charter board
7 comes in with a charter, this charter is put before the
8 people. There is going to be a charter to this and I think
9 it is a good amendment to provide that this charter board
10 can be supplemented by proposals from the public by refer-
11 endum and I think you will see that at the time, but our
12 purpose here is to have legislation on the books on July
13 first, 1978, pursuant to which charter boards can be
14 created and in this section we would expect and hope that
15 the several counties that do not now have charters would
16 immediately commence a procedure to get a charter.

17 Now, the fall elections in 1970 will be held
18 for the new charter provisions in all of the counties and
19 under the old charter provision under the old charters.
20 It is very important, if the counties, various counties,
21 Harford, St. Mary's, and what have you, have not adopted a

1 charter of their own by July first, 1970, under the
2 procedure set out in Section 30 or some other procedure
3 designated by the Legislature. Then the Legislature's
4 model charter which they will provide by law will be
5 their charter, so that on July the first, 1970, every
6 county will know what its charter is going to look like.
7 It will either have adopted one or it will have adopted the
8 Legislature's model charter so that in the primaries in
9 September of 1970 and in the general elections in November
10 of 1970, the persons running for elections at that time
11 will be running under the new charters in all of the counties
12 so that on January the sixth or January the first rather,
13 1971, all of the counties will have charters, all of the
14 counties will have charter governments in operation and
15 so the procedure in Section 30 is just one procedure to
16 permit them to do that.

17 Section 31 is a provision for amending charters
18 that comes out of the present Constitution.

19 I stand corrected on Section 31. This is a new
20 provision with regard to the amendment of charters and it
21 was proposed and inserted here very recently; as a matter of

1 fact, since I looked at this last for amending instruments
2 of government and it comes in through Delegate Moser in
3 the Committee on the Local Branch. I think it is self
4 explanatory, though. It permits charter counties to amend
5 their charters. It is statutory, of course.

6 Section 32 continues county commissioners.
7 The reason that we had to continue county commissioners
8 by an express section is that they were constitutional
9 officers and when we struck down the old Constitution, we
10 struck down the old county commissioners and they had to
11 be continued as legislative officers in the new framework
12 of government.

13 Section 33, the same with regard to county
14 surveyors.

15 General Provisions. I think Section 34 is
16 self explanatory. It comes out of the old Constitution.

17 Section 35 is what I was thinking of actually and
18 you can see that it is quite different. This comes out of
19 the old Constitution and continues as a procedure for the
20 amendment of the Constitution until we have the new
21 Constitution, this provision going into effect.

1 Mr. Chairman, I think that is a very superficial
2 and a very skimpy explanation of the whole thing. I hope
3 it gives you some perspective of what we are trying to do.

4 What you should do is to delve into it in greater
5 detail and with more specificity.

6 (Whereupon, Delegate James assumed the Chair.)

7 THE CHAIRMAN: Before going into our question
8 period, I would like to recognize Delegate Winslow.

9 DELEGATE WINSLOW: Mr. President, I should like
10 to announce in the rear gallery of thirty-one students
11 from the Hampton Elementary School. They are fifth graders
12 who have made a study of the Constitution and I have asked
13 them to pass along any ideas they have as to what we are
14 doing. They are here with their principal, Mrs. Robinson,
15 and with their parents.

16 Will you please give them your usual welcome to
17 these students who are so much interested in what we are
18 doing? (Applause)

19 THE PRESIDENT: Thank you very much. We are
20 very happy to have you with us.

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1 When Delegate Hardwicke is ready, we will have
2 our period of questioning.

3 Any questions for purpose of clarification?

4 Mr. Rybczynski.

5 DELEGATE RYBCZYNSKI: Mr. President, shall I
6 confine myself to the early sections?

7 THE CHAIRMAN: I think you can make inquiry
8 concerning any section for which you seek clarification.

9 DELEGATE RYBCZYNSKI: Delegate Hardwicke, if
10 you will refer yourself to page 2, section 3, I still
11 am not clear as to why you have inserted the date of July
12 1, 1969, in view of your further explanation last
13 evening that it is possible that the General Assembly
14 will do nothing about that section and that the courts
15 will then go on with an interpretation of what it believes
16 to be a correct interpretation of the word "damages".
17 Why do we need a date?

18 DELEGATE HARDWICKE: The reason is that we
19 want to give the legislature an opportunity to act. If
20 we don't put this deferred date in here, then this
21 provision with regard to damages will go into effect

1 without the legislature having an opportunity to provide
2 restrictions and qualifications upon that right, and
3 think, it is our proposal, at least the Committee's
4 proposal, that the legislature ought to have one session
5 in which to act in this record.

6 If they don't, then we take it that the
7 General Assembly has decided they don't want to put in
8 any restrictions or qualifications.

9 THE CHAIRMAN: Delegate Rybczynski.

10 DELEGATE RYBCZYNSKI: Following your thought
11 further as you suggested last evening, the people who
12 will be damaged between July 1, 1968, and July 1, 1969,
13 will have no recourse. Is this true?

14 DELEGATE HARDWICKE: That is true, but that is
15 the way it has been from 1776 to 1968.

16 THE CHAIRMAN: Delegate Rybczynski.

17 DELEGATE RYBCZYNSKI: If you will, down to
18 the Section C, I am even less clear as to why there
19 should be a date there since the reversal of the sovereign
20 immunity places no direct imposition on the General
21 Assembly about making any changes whatsoever. It merely

1 reverses the doctrine as it now exists.

2 Why should there be a year and a half delay
3 and, again, the people suffering damages in that year and
4 a half? Why should they be denied the benefit of what we
5 are trying to do here?

6 DELEGATE HARDWICKE: We have the same principle
7 here, I think, that the legislature ought to have an
8 opportunity to act in the area that on July 1st, 1968, it
9 will not have had an opportunity to act, and it ought to
10 have at least one full term in which to act.

11 Now, let me divert briefly from your question
12 and my answer because I want to explain something with
13 regard to this January 1, 1970 date. It was our feeling
14 that the legislature would probably act in this area
15 with regard to sovereign immunity by July 1st, 1969. It
16 was then our intention to defer for an additional five
17 months, six months, rather, the time in order to permit
18 municipalities and so forth to get insurance which
19 would be sufficient to protect them with regard to the
20 act of the legislature.

21 Here is the way we put it through. Sovereign

1 immunity may not be pleaded as a defense in suits against
2 the state or any units of local government or any of
3 their departments or agencies except to the extent and
4 in the manner provided by law. Now, Delegate Rybczynski,
5 we felt that since this Convention said except to the
6 extent and in the manner provided by law, that the
7 legislature ought to have an opportunity to provide the
8 exception that we set forth in here and to provide the
9 manner that we said they could provide.

10 Otherwise, you will have a period from July
11 1st coming until the time that the legislature meets
12 that they could not have acted. We don't think that is
13 the intention of this Convention. We postponed the
14 effective date for one year to give the legislature time
15 to act and for an additional five or six months in order
16 to give the municipalities time to obtain proper insurance.

17 THE CHAIRMAN: Delegate Rybczynski.

18 DELEGATE RYBCZYNSKI: Once again, Delegate
19 Hardwicke, I just want to comment I still don't under-
20 stand how we can possibly overlook the fact that in that
21 year and a half many persons will suffer damages and will

1 not be in a position to take advantage of this. If
2 you will, go to Section 16 under the Judicial Branch.

3 THE CHAIRMAN: Delegate Rybczynski, let
4 me make a statement for the purpose of clarification. It
5 has been suggested to the Chair and the Chair agrees that
6 for the purpose of keeping a clear record it will be
7 better to confine our questions or to take our sections
8 in seriatim for the purpose of clarification.

9 Since you referred to Section 2, we are right
10 in line with that. Is there a reference to Section 16
11 for the purpose of clarifying Section 3?

12 DELEGATE RYBCZYNSKI: No.

13 THE CHAIRMAN: Well, the Chair would like to
14 follow the procedure subject to the approval of the
15 Convention to take up each section seriatim for the
16 purpose of clarification so that if you have finished
17 your questions on Section 3, we will ask for any further
18 questions on Section 3 and then we will go to Section 4
19 and read Section 16 in order.

20 DELEGATE RYBCZYNSKI: You recall that I asked
21 you that additional --

1 THE CHAIRMAN: Yes, I understand that. I
2 think the Chair was in error in its approach. I think
3 we covered Section 1 last night. The recollection is
4 that we covered 1 and 2 last evening. We are now on
5 Section 3. Any further questions for clarification on
6 Section 3?

7 Delegate Henderson?

8 DELEGATE HENDERSON: Referring again to Section
9 3, sovereign immunity, I would like to call attention
10 to one fact which hasn't yet been mentioned, I believe,
11 and that is the legislature under the present Constitution
12 has dealt with this subject of sovereign immunity by
13 providing that it cannot be pleaded in any case where
14 insurance is covered and that has been worked out very
15 carefully under the rules of court to keep the fact of
16 insurance away from the jury so that to that limited
17 extent, the legislature has already dealt with this
18 problem and may want to deal with it along the same lines
19 or other lines and they should have an opportunity to do
20 so.

21 THE CHAIRMAN: Does Delegate Gill wish to seek

1 clarification on Section 3?

2 DELEGATE GILL: Yes, please.

3 THE CHAIRMAN: Delegate Gill.

4 DELEGATE GILL: Mr. Chairman, in Section 3,
5 letter "A", on damage, I wonder if I might give an example
6 to see if I might understand when the effective date is.

7 Delegate Hardwicke, if I have a home that is
8 damaged, say, in June of 1969, could I bring suit or
9 claim damages July 2nd, 1969?

10 THE CHAIRMAN: Delegate Hardwicke.

11 DELEGATE HARDWICKE: No.

12 THE CHAIRMAN: Delegate Gill.

13 DELEGATE GILL: In other words, if I have the
14 same home which is damaged July 2, from then on I could
15 bring damages?

16 THE CHAIRMAN: Delegate Hardwicke.

17 DELEGATE HARDWICKE: Yes.

18 THE CHAIRMAN: If there are no further questions
19 on Section 3, we will proceed to Section 4.

20 Delegate Chabot.

21 DELEGATE CHABOT: This is still on the same

1 section. Why is it necessary on 3, that there be a
2 two-year delay or one and a half year delay as to the
3 double jeopardy provisions?

4 THE CHAIRMAN: Delegate Hardwicke.

5 DELEGATE HARDWICKE: At the present time what
6 we are trying to hit at here is the situation where the
7 state can take an appeal from an adverse decision to the
8 state in one of the magistrate's courts and the state can
9 take the appeal de novo to the Circuit Court and it was
10 our feeling that this provision ought not to come in full
11 force and effect until we had the new district court
12 set up functions and also that it should not take effect
13 as to offenses committed prior to the effective date of
14 the new Constitution.

15 The reason in philosophy is, Delegate Chabot,
16 the reason that the state can take an appeal from the
17 magistrate, is that the magistrate is not a fully qualified
18 judge. New District Court judge will be a fully qualified
19 judge. These magistrates, as you know, you are well aware
20 of, are persons who are part time people. They may or
21 may not be lawyers and so forth.

1 Under the present Constitution, the State can
2 take an appeal up to the Circuit Court in these magistrate's
3 courts in adverse decisions. It was our feeling, when we
4 get a new district court with qualified judges, this
5 right ought not to exist and the double jeopardy provision
6 then ought to be applicable in the district court level,
7 but until the new district court comes into existence,
8 we want to continue to permit the state to take an appeal
9 from the magistrate.

10 THE CHAIRMAN: Delegate Chabot.

11 DELEGATE CHABOT: Without agreeing or pursuing
12 that particular point further, it would appear that you
13 are requiring the State to prove that the offense was,
14 in fact, committed prior to a certain date before the
15 State can take the appeal. Was this your purpose? I
16 would imagine in most of the cases coming before those
17 courts the question of whether the offense was committed
18 at all is determinative of the issue so that the State
19 couldn't normally have proven that the offense was
20 committed without normally proving that that person
21 committed the offense.

1 DELEGATE HARDWICKE: Well, Delegate Chabot,
2 I must concede that you have a point. The way this will
3 operate, and as I understand it, is that before July 1,
4 1968, those cases will be tried in the magistrates'
5 court and the State can take an appeal as it now can.

6 As to those cases which are tried in the
7 magistrates' court until the new district court comes
8 into effect, the State can still take an appeal no matter
9 when the offense was committed, even though it was
10 committed after July 1st, 1968.

11 If the case is tried in the magistrates' court
12 and not in the new district court, the case can take its
13 appeal in the superior court or the district court, as it
14 will be called. These conditions occur if the offense and
15 the trial took place before January 1, 1970.

16 THE CHAIRMAN: Any further questions on Section
17 3? If not, we will go to Section 4, Suffrage and Elections.
18 Any questions regarding Section 4?

19 The Chair hearing none, we will go to Section 5.
20 Delegate Marion.

21 DELEGATE MARION: Delegate Hardwicke, is there

1 any danger in prohibiting the effectiveness of Section
2 2.06 until the deferred date of July 1, 1969, when the
3 legislation is designed to accompany this section on
4 Section 3.15 expires on that date? As I understand, that
5 section authorizes the General Assembly to provide dis-
6 qualification.

7 THE CHAIRMAN: There are so many people walking
8 around and talking in here it is almost like Grand
9 Central Station. Really, we would like to have a little
10 more order and not so many people walking around.

11 Delegate Marion.

12 DELEGATE MARION: These telegrams seem to be
13 more important than the business at hand.

14 THE CHAIRMAN: Go ahead, Delegate Marion.

15 DELEGATE MARION: My question in short is,
16 is there any need at all in Section 5 in the Schedule
17 of Transitional Provisions and would it not encumber the
18 legislature from acting prior to that time to provide
19 for such disqualifications to take effect after the
20 legislative provision, Section 3, page 15, expired by its
21 own terms?

1 DELEGATE HARDWICKE: It seems to me, Delegate
2 Marion, that the two measure correctly.

3 Section 2.06 deals with disqualifications,
4 and it provides that the General Assembly can establish
5 by law the disqualifications and so since the General
6 Assembly is not going to be in session on July 1st,
7 1968, we gave them an additional year in which to set
8 up disqualifications.

9 Then, over in the Schedule we continued the
10 present constitutional disqualification provisions for
11 the period of time sufficient to permit them to act. It
12 seems to me that that is the way it should be done. What
13 danger do you see?

14 DELEGATE MARION: You don't permit them to
15 establish the disqualification prior to July 1, 1969,
16 by the language of Section 5. You say that that language
17 of the Constitution shall not become effective and,
18 therefore, it seems to me that you are saying that they
19 don't have the power to establish those disqualifications
20 until this section becomes effective in July of 1969.

21 By that date, Section 3 on page 15 in the

1 legislative schedule will have expired.

2 THE CHAIRMAN: Wouldn't the General Assembly
3 have plenary power to act if there were no constitutional
4 provision?

5 For what purpose does Delegate Chabot rise?

6 DELEGATE CHABOT: I suggest that the General
7 Assembly would have absolutely no power to act because as
8 this is written, present constitutional power --

9 THE CHAIRMAN: Delegate Marion has the floor,
10 Delegate Chabot.

11 DELEGATE MARION: I think Delegate Chabot was
12 starting to say the same thing I was saying unless there
13 is effective constitutional authorization for the
14 legislature to provide that someone who is otherwise
15 qualified to vote may be disqualified for certain
16 reasons, I don't think they have the plenary power to
17 provide those disqualifications in the teeth of the
18 Constitution and I am not sure that Section 3 on page
19 15 would be constitutional as legislation during the time
20 in which we say that Section 2.06 should not be effective.

21 My suggestion simply is that Section 5 here is

1 unnecessary and that we provide in effect for a one-year
2 period of time for the legislature to act by continuing
3 a disqualification section in the Schedule of Legislation
4 which expires a year after the Constitution takes effect.
5 That will give that year for the legislature to act and
6 it is dangerous to put this deferred effect in Section
7 2.06 in the Schedule of Transitional Provisions.

8 THE CHAIRMAN: Delegate Hardwicke.

9 DELEGATE HARDWICKE: I think you are right,
10 Delegate Marion. I think you are perfectly correct, and
11 I think Section 5 on page 3 can be stricken.

12 THE CHAIRMAN: Any further comments on Section
13 5?

14 DELEGATE HARDWICKE: Section 5, page 3, is
15 unnecessary.

16 THE CHAIRMAN: Section 6, Referendum for
17 Public Local Laws.

18 Delegate Chabot?

19 DELEGATE CHABOT: I just would like to know
20 to what the January 6, 1971 date refers to? Does that
21 refer to laws enacted prior to that date or petitions

1 filed prior to that date or referenda held prior to that
2 date?

3 DELEGATE HARDWICKE: This date, January 6,
4 1971, ties into the time that all of the counties will
5 have charters, and the idea is that there shall be no
6 referral prior to that date except in accordance with
7 this provision and it doesn't make any difference when the
8 law was passed. That is to say, that the referral, the
9 mechanism for the referendum, must be completed and
10 done prior to this time at which time this goes out of
11 effect.

12 THE CHAIRMAN: Delegate Koss.

13 DELEGATE KOSS: Chairman Hardwicke, I think
14 that the point that Delegate Chabot raises is a valid
15 one because a law might be petitioned. I think that the
16 January 6 date refers to the date of enactment of a law,
17 that any law enacted prior to that date shall be subject
18 to the provisions in the present Constitution. It is
19 not that the referendum procedure in terms of voting has
20 to be completed by that date.

21 THE CHAIRMAN: Delegate Hardwicke.

1 DELEGATE HARDWICKE: I think that is correct.
2 I think this conforms to the other referendum procedure
3 which relates to enactment.

4 THE CHAIRMAN: Is the language clear on that,
5 Delegate Hardwicke, or will this require amendment?

6 DELEGATE HARDWICKE: I think we should amend
7 Section 6 so it will read in the same way the other
8 referendum provision reads with regard to laws enacted
9 prior to January 6, 1971.

10 THE CHAIRMAN: Public local law?

11 In other words, it would probably read, "A
12 public local law enacted prior to"? Is that correct?

13 DELEGATE HARDWICKE: Yes. That is the correct
14 answer to you, Delegate Chabot. My answer was incorrect.

15 THE CHAIRMAN: If there is no objection, the
16 language will be considered so modified.

17 All right, any further questioning concerning
18 Section 6? If not, we will proceed to Section 7. The
19 Chair hearing no questions will proceed to Section 8.

20 The Chair hearing no questions, we will
21 proceed to Section 9, Executive Branch, Election of

1 Officers.

2 The Chair, hearing no inquiries, it will
3 proceed to Section 10, terms of office of incumbents.

4 Delegate Byrnes.

5 DELEGATE BYRNES: Delegate Hardwicke, where
6 will I find a provision which would continue the powers
7 of the current comptroller, et cetera, until 1971, if
8 the current constitutional powers cease with the Consti-
9 tution, what does it continue to do? I notice, according
10 to your memorandum, your intention is that you shall
11 continue with these powers, but where do you effectively
12 give them to them?

13 THE CHAIRMAN: Page 19?

14 DELEGATE HARDWICKE: Page 19, with regard to
15 the Treasurer and Comptroller and Section 13 and Section
16 14, the Board of Public Works.

17 THE CHAIRMAN: Delegate Ulrich.

18 DELEGATE ULRICH: Mr. Chairman, I suggest an
19 absence of a quorum.

20 THE CHAIRMAN: The Clerk will ring the quorum
21 bell.

1 The Members will record a vote on a quorum
2 call.

3 Has every member recorded his presence?

4 The Clerk will record the vote on the quorum
5 call.

6 There being one hundred and three members
7 present, a quorum is present and the Constitutional
8 Convention may continue in operation.

9 We are on Section 10, Terms in Office of
10 Incumbents. Delegate Byrnes completed his question.

11 Any other question on Section 10? Terms of
12 Office of Incumbents?

13 The Chair, hearing none,--

14 It is nice to be sociable, but we have to
15 keep the talk down under a roar.

16 Delegate Bennett.

17 DELEGATE BENNETT: May I revert a minute to
18 Section 8 regarding redistributing and refer, if I may,
19 to Delegate Gallagher's memorandum which, I think, is
20 a very useful memorandum, if I may address a question to
21 Delegate Gallagher. Is it your suggestion, Delegate

1 Gallagher, that we undertake to do something about
2 alleviating the pressure on the General Assembly to adopt
3 the so-called official figures?

4 THE CHAIRMAN: Delegate Gallagher, do you
5 yield. This is direct to Delegate Hardwicke, but I
6 guess we can break the rule a little.

7 Delegate Gallagher.

8 DELEGATE GALLAGHER: I will be unusually brief,
9 Mr. President.

10 The purpose of the memorandum is to show the
11 deviation from the mean for each House seat in 1960 and
12 in 1970, assuming one hundred forty-two seats in both
13 1960 and 1970 -- We are developing what the deviations
14 would be in 1970 using one hundred twenty seats and using
15 the 1960 population.

16 Naturally, the entire thrust of this
17 memorandum is an argument for the support of the Committee
18 of the Whole's action and I won't debate that now since
19 that will be up later.

20 THE CHAIRMAN: All right.

21 We have completed our questions on Section 10,

1 and we will go to Section 11, Lieutenant Governor.
2 That was one section that I could interpret immediately
3 when I read it.

4 Section 12, any questions on Section 12?
5 Delegate Chabot.

6 DELEGATE CHABOT: Article 2, Section 7, also
7 gives the legislature some broad powers regarding impeach-
8 ment. Is there any intention to continue these powers?

9 DELEGATE HARDWICKE: In other words, your
10 question is whether there should be a postponement of
11 the impeachment powers, Delegate Chabot?

12 DELEGATE CHABOT: No. Not whether there
13 should be a postponement, but one of these provisions of
14 the current Constitution that is being continued by
15 Section 12 also gives the legislature power of impeachment.
16 It is in our green copy of the present Constitution. It
17 is on Page 14 which would mean that if that section
18 continues and we have new impeachment procedures for a
19 while, we may have several different methods. Was
20 there any intention to do this?

21 THE CHAIRMAN: Delegate Chabot, in answer to

1 your question, there was no such intention, and if we
2 leave this transitional provision just as it is, it is my
3 guess that the court would interpret this Section 12
4 as control with regard to the incumbent Governor over
5 any contrary provision of the new Constitution. I
6 don't think it is a matter of any crucial importance.

7 It was inadvertent, but my believe is that the
8 incumbent Governor would be impeached pursuant to Section
9 7 of our Constitution because the more specific provision
10 controls the general in case of conflict. It is a
11 good question.

12 Delegate Chabot, are you making inquiry
13 concerning whether there should be further clarification
14 of this?

15 DELEGATE CHABOT: Yes, to make sure that the
16 Committee has it before it so that if it feels that there
17 is a problem, the matter is finally decided by a decision
18 and not by inadvertence. I assume that the current
19 Governor will take note of the difficulties.

20 DELEGATE HARDWICKE: It is our intention that
21 the prior Constitution will control with regard to the

1 incumbent Governor, not withstanding anything in the
2 present Constitution, albeit, it was slightly inadvertent.

3 THE CHAIRMAN: Any further questions on
4 Section 12?

5 Section 13?

6 If there are no questions, we will go to
7 Section 14.

8 The Chair hearing no questions, Section 15.

9 The Chair hearing no questions, we will proceed
10 to the Judicial Branch, Section 16, Judicial Power.

11 Delegate Rybczynski.

12 DELEGATE RYBCZYNSKI: Delegate Hardwicke,
13 I am looking for something. I can't find it. I am
14 sure you have taken care of it. On page 5 and Section
15 16, I am looking for the transfer of duties and powers of
16 the Orphans' Court. To which levels are these duties and
17 powers transferred?

18 DELEGATE HARDWICKE: Delegate Rybczynski,
19 they expire and their functions will be picked up by
20 the power of the legislature to assign the duties and the
21 responsibilities of the four-tier court system.

1 THE CHAIRMAN: Delegate Rybczynski.

2 DELEGATE RYBCZYNSKI: In other words, my
3 recollection of our discussion during the Judicial
4 Branch session was that these duties and powers were to
5 be picked up by the superior court. You are now saying
6 this is not so in the transitional provisions?

7 THE CHAIRMAN: Delegate Hardwicke.

8 DELEGATE HARDWICKE: They may be picked up by
9 the superior court, but not necessarily so. It is not
10 our intention to dictate to the legislature with
11 regard to the functions of any of the four levels of
12 courts. If they wanted to take the Orphans' Court
13 functions and give them to the district court, I can't
14 say that this Convention has any intention to object to
15 that.

16 I think, however, as a matter of logic and
17 plausibility, they will probably go to the superior
18 court.

19 THE CHAIRMAN: Delegate Rybczynski.

20 DELEGATE RYBCZYNSKI: If I might remind you,
21 you have taken care of every other existing court and

1 placed it in a tier. I am just wondering why you have
2 deliberately left this one court alone?

3 THE CHAIRMAN: Delegate Hardwicke.

4 DELEGATE HARDWICKE: I can conceive of a
5 situation where the legislature might assign the function
6 to the Orphans' Court to the Clerks of the superior
7 court in the several counties and not have a judicial
8 function at all with regard to what the Orphans' Court
9 does.

10 THE CHAIRMAN: Before further questioning, the
11 Chairman of the Publicity Committee has advised the Chair
12 that we have cameramen in the balcony who are helping update
13 the Mighty Oak, the film which is going to be utilized,
14 so if you are of a mind to be part of the motion picture,
15 it would be a good idea to stay here for the benefit of
16 film improvement and for the purpose of personal publicity.

17 Delegate Bennett.

18 DELEGATE BENNETT: Then perhaps I better
19 delay my question for a little while until the cameraman
20 gets up there.

21 But, Delegate Hardwicke, further with regard

1 to Section 16, aren't you empowering, or I assume you are
2 empowering, the General Assembly to make changes in the
3 jurisdictions of those courts and so on before January
4 1, 1971, aren't you?

5 DELEGATE HARDWICKE: That is correct.

6 DELEGATE BENNETT: And that probably would be
7 a good thing to do, isn't that correct?

8 DELEGATE HARDWICKE: That is correct.

9 THE CHAIRMAN: Any further questions on Section
10 16?

11 Delegate Groh.

12 DELEGATE GROH: You intended to include Justices
13 of the Peace in magistrates' court on line 36, for instance?

14 DELEGATE HARDWICKE: There is a question of
15 terminology here. Theoretically there are no magistrates'
16 courts as such. There are justices of the peace who are
17 designated as magistrates and the language "justice of
18 the peace" will pick up the magistrate.

19 THE CHAIRMAN: Any further questions as to
20 Section 16?

21 Section 17?

1 Delegate Grant.

2 DELEGATE GRANT: Looking at Sections 3.17 and
3 18, it seems to me that there is a possible hiatus. I
4 can't determine where there is an appeal at jurisdiction
5 from the trial magistrates in between the time that this
6 article becomes effective and that appeal at jurisdiction
7 being dealt with in Section 17. It says that any cases
8 there will then be disposed of and then you have the
9 district courts coming into existence on December 31,
10 1969, but it looks for about an eighteen-month period you
11 don't have any appellate jurisdiction other than this one
12 thing in Article 3, Section B, where you say you can
13 have it de novo if a man is acquitted. But if convicted,
14 I don't see a provision for an appeal by him.

1 (Whereupon, Chairman Eney resumed the Chair.)

2 DELEGATE GRANT: This is statutory. The
3 continuation of the statutory law will continue this
4 appellate jurisdiction.

5 THE CHAIRMAN: Delegate Grant.

6 DELEGATE GRANT: I understand, then, that not-
7 withstanding the transition provisions in here that the
8 statutory law will continue appeal jurisdiction in the
9 circuit courts for the magistrates court until such time as
10 the four-tier system comes into effect, then appellate
11 provisions will be vested in the intermediate court or super-
12 ior court.

13 THE CHAIRMAN: That is correct, but it is not
14 withstanding the transitional period. They provide contin-
15 uance of law in effect on June 30, 1968. Since it is law
16 on June 30, it is continued by that specific provision.

17 Any further question as to Section 18?

18 Any questions as to Section 19?

19 Section 20?

20 Section 21?

21 22?

1 Delegate Willoner.

2 DELEGATE WILLONER: Excuse me, I am on 23.

3 THE CHAIRMAN: As to 23, Delegate Case, do you
4 have questions on 23?

5 DELEGATE CASE: 23, Mr. President.

6 THE CHAIRMAN: Delegate Willoner.

7 DELEGATE WILLONER: In discussing this earlier
8 you referred to part time officers. Did you consider
9 substitute People's Court judges who I assume full time
10 ~~Municipal~~ People's Court judges, but they are substitute People's
11 Court judges? I understand in Montgomery and Prince
12 Georges County the term "full time judge" does not include
13 the substitute.

14 THE CHAIRMAN: Delegate Case.

15 DELEGATE CASE: Mr. Chairman, I notice that you
16 have specified counties in Baltimore City in which the
17 full time judges of courts of limited jurisdiction would
18 be continued in office if their term of office did continue
19 past December 31, 1969.

20 Am I correct up to now?

21 THE CHAIRMAN: Delegate Hardwicke.

1 DELEGATE HARDWICKE: That is correct.

2 DELEGATE CASE: What would happen if one or all
3 of the eighteen other counties wished to adopt a system of
4 full time courts of limited jurisdiction between now and
5 December 31, 1969? Would this system be scrapped under the
6 provision of this Section 23?

7 THE CHAIRMAN: Delegate Case, may the Chair
8 interrupt? You said each county adopted. You mean that the
9 General Assembly provides for a county?

10 DELEGATE CASE: Yes, sir. That is a more accurate
11 way of stating it.

12 The answer to your question is if such a full
13 time system were set up those judges would be scrapped under
14 the new Constitution.

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1 THE CHAIRMAN: Delegate Case.

2 DELEGATE CASE: So it can be perfectly
3 clear to all the delegates, if Frederick County, for example,
4 at this session of the legislature secured legislation
5 which would establish in that county a full-time system
6 of courts of limited jurisdiction, and the judges were
7 appointed by the Governor or selected in such a way as
8 the legislature might provide, that that entire system
9 would last only until December 31, 1969, at which time
10 you would have to go through the whole procedure all over
11 again.

12 THE CHAIRMAN: Delegate Hardwicke.

13 DELEGATE HARDWICKE: As a practical matter
14 I would suggest that all the judges who were sitting
15 in such a court would probably be continued as District
16 Court judges, if they were qualified. They would be subject
17 to the provisions of the new Constitution. They might
18 not be continued.

19 The purpose is to prevent the counties from
20 creating monstrosities of a lot of judges and clerks, and
21 a tremendously large and expensive operation which we

1 would have to take over when the District Courts come
2 into effect on January 1, 1970.

3 THE CHAIRMAN: Delegate Case.

4 DELEGATE CASE: Well, let me make two
5 additional comments: First the report of the State Bar
6 Association, upon which this system was, in essence,
7 based, envisaged that there would be a cutoff date,
8 and that that cutoff date would not be limited, necessarily,
9 to the judges who are now appointed, and holding office,
10 but that it would, in fact, give the counties a chance
11 to secure legislation which would adopt systems of their
12 own which could be blanketed in.

13 I take it that the Transitory Committee has
14 scrapped that part of the proposal.

15 THE CHAIRMAN: Delegate Hardwicke.

16 DELEGATE HARDWICKE: Well, in answer to that, the
17 Bar Association's recommendation, as I understand it, was
18 not made with a view to a new Constitution coming into
19 effect. It is our purpose not to permit anybody to tamper
20 with the new Constitution coming into effect by the device
21 of creating judgeships, and I think I know what you have in

1 mind, but if the counties on an individual basis could
2 create a large number of judges, and we had to preserve them
3 under the new Constitution, we would give them a unilateral
4 control over the new Constitution with regard to the judges
5 so created.

6 We don't think that is right.

7 THE CHAIRMAN: Delegate Case.

8 DELEGATE CASE: Don't you envisage that the
9 legislature in setting up the districts for the District
10 Court system could control this? Isn't this the way it
11 is really going to be controlled?

12 THE CHAIRMAN: Delegate Hardwicke.

13 DELEGATE HARDWICKE: Yes.

14 THE CHAIRMAN: Delegate Case.

15 DELEGATE CASE: So that actually the fear
16 that you suggest is not present, because the legislature in
17 the last analysis, when it districts the State, is going
18 to have to take a hard look at the whole thing, and either
19 increase or reduce the number of judges who have then been
20 in existence.

21 THE CHAIRMAN: Delegate Hardwicke.

1 DELEGATE HARDWICKE: I would only suggest to
2 you, Delegate Case, if your point were to prevail, it would
3 not be the General Assembly that would have control over
4 the new judgeships. It would be the local county governments
5 which would have control over the new judgeships.

6 THE CHAIRMAN: Delegate Case.

7 DELEGATE CASE: I don't want to debate it with
8 you now, but I strenuously disagree with that.

9 For example, using Delegate Grant's county,
10 which is the one that has been used most frequently: If
11 Garrett County passed a bill which would set up five full-
12 time people's courts Judges, you don't for one think that
13 the legislature wouldn't when it redistricts the state have
14 the power to cut that down to one, do you?

15 THE CHAIRMAN: Delegate Case and Delegate
16 Hardwicke, I think the last several questions and answers
17 were passing each other. When I made the suggestion that
18 I did to you earlier as to your first question, that
19 Delegate Hardwicke was conferring with Mr. Adkins, and didn't
20 catch the distinction.

21 Delegate Hardwicke, when Mr. Case was referring
to people's courts created in counties, he was not referring

1 to People's Courts created by local government, but by act
2 of the legislature for a county.

3 And I think, Delegate Case, that what Delegate
4 Hardwicke is saying is that the intent of these provisions
5 is that from now out, the legislature in creating any
6 People's Court judges for any particular county would
7 have in mind that it is also within a very few years going
8 to be creating a district court, and it would act in creating
9 the new people's courts on the assumption that it was
10 acting temporarily.

11 In other words, it would be a part of the
12 overall picture with the new district court to come into
13 effect as soon as the legislature had worked out the
14 details.

15 Delegate Case.

16 DELEGATE CASE: But it does to that extent
17 freeze judicial reform in the state until 1970.

18 THE CHAIRMAN: No. I don't think it freezes
19 judicial reform, the General Assembly, to use again your
20 illustration of Garrett County, if it is deemed desirable
21 to supplant the present trial magistrates system in the

1 county within people's court, it could do so, but it would be
2 doing so with the idea it could act in two bites, one,
3 effective from now until 1970, and the second when the
4 district court system came into effect.

5 Delegate Case.

6 DELEGATE CASE: My only point was that this
7 prevents the legislature in its wisdom from acting in
8 one bite.

9 THE CHAIRMAN: I think that is true.

10 Are there any further questions as to section
11 23?

12 Delegate Henderson.

13 DELEGATE HENDERSON: It seems to me that there
14 is another aspect of this thing which I know was discussed
15 in the judicial branch. The point is that when this new
16 system goes into effect, there is a transfer from local to
17 state expense, and that is -- certainly there was some
18 discussion in the judicial branch that we didn't want
19 localities freezing a thing which would ultimately fasten
20 upon the state. In other words, it would protect that feature
21 of it that the matter was cut down.

1 I would like to inquire: Isn't there some
2 requirement for the legislature to set up a people's court
3 without constitutional amendment?

4 DELEGATE HARDWICKE: The answer would be no.
5 It would have to act within the framework of the four-tier
6 court system, and it could not ~~after~~ July 1, 1968.

7 THE CHAIRMAN: The question is under the
8 present Constitution. Is that what you meant, Delegate
9 Henderson?

10 DELEGATE HENDERSON: The answer to that question
11 is that it could.

12 THE CHAIRMAN: Any questions as to section 23?
13 Any questions as to section 24? Section 25?
14 Delegate Marion.

15 DELEGATE MARION: Delegate Hardwicke, the
16 sections -- by section 25, the sections of the judicial
17 article are relating to the nominating commission procedure
18 are deferred for one year. I may be missing something
19 obvious, but I am curious as to the reason for the
20 language in lines 20 and 21 of "other than the expiration
21 of the term of office."

1 By what procedure would a vacancy be filled
2 during the intervening one year if a term of office of a
3 judge of one of those three court levels ended in that
4 year?

5 DELEGATE HARDWICKE: By the Governor, Delegate
6 Marion, and this is expressly provided for in section 27
7 on the next page.

8 THE CHAIRMAN: Delegate Marion.

9 DELEGATE MARION: As I read section 27, that
10 relates only to section 5.22, which involves the non-
11 competitive election, and the term of office for a judge --
12 as I gather, section 5.22 is to take effect immediately for
13 all practical purposes.

14 I am not sure that answers my question as to
15 an appointment to fill a vacancy.

16 THE CHAIRMAN: I am not sure I understand the
17 import of the question.

18 DELEGATE MARION: My question with respect to
19 section 5.25, since you make an exception for appointments
20 prior to ---

21 THE CHAIRMAN: You mean 5.25 of the

1 transitional.

2 DELEGATE MARION: Section 5.25 on page 8.

3 THE CHAIRMAN: You don't mean section5.25.
4 You mean section25.

5 DELEGATE MARION: I'm sorry. Yes, sir.
6 Section 25 on page 8.

7 DELEGATE HARDWICKE: In section 25 there are
8 two breakdowns,first of all if the term ends for any
9 reason beside expiration, then the Governor appoints.
10 In other words, a death, and so forth.

11 If it ends by reason of expiration, then
12 sectin 27, page 9, is used, and there is an election pursuant
13 to the terms of the new Constitution.

14 THE CHAIRMAN: Delegate Marion.

15 DELEGATE MARION: Suppose the -- I say you
16 are using a term of office to mean at the time of an
17 election.

18 It would not mean a retirement at age 70 --
19 that would be covered by this language in section25.

20 DELEGATE HARDWICKE: That is correct.

21 THE CHAIRMAN: Any other questions as to

1 section 25?

2 Section 26?

3 Section 27?

4 Section 28?

5 Section 29?

6 Section 30?

7 Section 31.

8 Delegate Gleason.

9 DELEGATE GLEASON: Delegate Hardwicke, I
10 think my question has already been answered by Delegate
11 Marvin Smith, but I think it important to get it on the
12 record, and make sure that that is the right answer.

13 We provide in the schedule of legislation
14 for the salaries on the three-tier level to take effect,
15 I believe, as of July 1968 . When I look back at the
16 judicial branch article, and I recall the provision in there
17 that the compensation of a judge shall not be reduced during
18 his continuance in office, does this statutory provision,
19 in effect, freeze the hands of the General Assembly to
20 provide for judges appointed under the system thereafter,
21 a lower uniform compensation?

1 I am not sure I make my point clear. I am
2 concerned that we are taking away from the General
3 Assembly the few prerogatives they have left.

4 DELEGATE HARDWICKE: In this schedule of sala-
5 ries that we are setting up in the legislation, we are
6 not reducing any salaries because we are picking the high
7 salary across the board.

8 If the legislature wanted after this
9 schedule goes into effect, wanted to reduce the salary of
10 any judge, I think it would be as a practical matter totally
11 impossible to do, because you couldn't reduce any without
12 running afoul of the Constitutional mandate against
13 reduction of the salary.

14 If you tried to do it across the line, you
15 would hit at least one such judge, it seems to me.

16 If you tried to hit one judge, you would then
17 run afoul of your requirement that there be a uniform
18 salary across the board, so I do think you have affected
19 the power of the General Assembly to decrease the salary
20 of the new judge.

21 THE CHAIRMAN: I am not sure that I followed

1 clearly all the implications of the question, but there is,
2 is there not, Delegate Hardwicke, a provision in the
3 Constitution that would authorize the General Assembly to
4 reduce the salaries of judges applicable to judges
5 thereafter appointed?

6 DELEGATE HARDWICKE: Yes, but as I understand
7 it, in keeping your salary level uniform throughout the
8 four-tier system, it occurs to me that you would have to --
9 if you changed one salary at any point, you would have to
10 change every other salary.

11 THE CHAIRMAN: Except for the specific
12 provision that I have in mind that I think was finally
13 adopted.

14 Delegate Mudd.

15 DELEGATE MUDD: Mr. Chairman, I think section
16 5.24 of the judicial article, particularly sentence 3,
17 answers Delegate Gleason's question.

18 THE CHAIRMAN: Yes, that is the section that
19 I have in mind. It reads, Delegate Gleason: "Judges of
20 the same courts shall be paid the same compensation including
21 any pension based upon length of service, except that a

1 uniform reduction in compensation may be made applicable
2 to all judges of the same court appointed after the
3 effective date of the reduction."

4 Any further questions as to section 30?

5 Section 31?

6 Section 32?

7 Section 33?

8 Section 34?

9 Section 35?

10 Section 36?

11 Section 37?

12 Section 38?

13 Section 39?

14 Section 40?

15 Section 41?

16 Section 42?

17 That brings us to the schedule of legislation
18 beginning on page 15.

19 Delegate Rybczynski.

20 DELEGATE RYBCZYNSKI. I was out of the room in
21 Legislative Reference while you were on the 28. Did anyone

1 make clear that the present 15-year terms of present
2 judges will not be affected? Is that clear in the reading
3 of this section 28 on page 9?

4 DELEGATE HARDWICKE: That is our intention,
5 Delegate Rybczynski.

6 THE CHAIRMAN: Delegate Rybczynski.

7 DELEGATE RYBCZYNSKI. The way it says "at the
8 expiration of his term pursuant to and for the term
9 prescribed by Section 5.22 --". It would be disastrous
10 if someone were to interpret that as meaning the present
11 terms pursuant to the new section.

12 DELEGATE HARDWICKE: I think he is referring
13 probably to section 20.

14 THE CHAIRMAN: No. I think his problem
15 is one of grammar, or language. And this may be a matter
16 that should be clarified. In section 28, the first four
17 lines read: "Any judge of any court continued in office
18 pursuant to this schedule shall stand for retention in
19 office at the expiration of his term pursuant to and for
20 the term prescribed by section 5.22." The word "pursuant
21 to" in line 40 is not referring to the phrase "expiration

1 of his term", but refer instead to his retention in office,
2 so perhaps it should be rearranged. The sentence means
3 shall stand for retention in office pursuant to section
4 5.22 upon the expiration of his term.

5 DELEGATE HARDWICKE: Thank you. That is a good
6 point of it, Mr. Chairman.

7 THE CHAIRMAN: Delegate Penniman, can your
8 secretary make a note of it? She has it.

9 Delegate Grant.

10 DELEGATE GRANT: I have one question with regard
11 to section 42. It indicates there that the bonded indebted-
12 ness is limited to indebtedness authorized by the General
13 Assembly or any local legislative body.

14 I assume that would include municipalities and
15 counties. However, how about the state authorities, and
16 also any particular agency of the state?

17 I am thinking about toll commissions,
18 Washington Suburban Sanitary Commission, and other agencies
19 like that which may have been set up.

20 THE CHAIRMAN: Delegate Hardwicke.

21 DELEGATE HARDWICKE: It is my impression that

1 these are authorized by the General Assembly, but I would
2 like Judge Sherbow to confirm that.

3 THE CHAIRMAN: Delegate Sherbow.

4 DELEGATE SHERBOW: I must admit I was reading
5 something entirely different.

6 THE CHAIRMAN: May I direct your attention
7 to section 42 on page 14.

8 Delegate Grant calls attention to the fact
9 that the section refers to bonds and other evidences of
10 indebtedness authorized by the General Assembly or by
11 any local legislative body prior to the effective date
12 of this Constitution, and he asks what about bonds issued
13 by various authorities such as revenue authorities.

14 Delegate Sherbow.

15 DELEGATE SHERBOW: I would assume they would be
16 covered in the same way.

17 THE CHAIRMAN: In other words, I take it the
18 answer is that the bonds necessarily are authorized either
19 by an enabling act of the General Assembly, or by an
20 enabling ordinance of the local legislative body. In
21 either event, they are within the ambit of this section.

1 This does not say bonds authorized in the
2 sense of issued, but authorized in the sense of authorized
3 to be issued.

4 Delegate Grant.

5 DELEGATE GRANT: I would assume by that that
6 presumably as long as a body by some route or other could
7 draw its ultimate authority from the General Assembly,
8 then any discretion that they might have for the issuance
9 of bonds would be satisfactory and, secondly, that any body
10 such as the Washington Suburban Sanitary Commission which
11 draws its authorization from Prince Georges County and
12 Montgomery County, and they from the General Assembly,
13 would likewise also.

14 THE CHAIRMAN: I think there is confusion on
15 two points. I think you are reading the word "authorized"
16 from what is intended. Secondly, I don't think you have
17 clearly in mind the purpose to be served by this section.

18 The question arose in this matter either by act
19 of General Assembly or act of the local legislative body,
20 someone, either a county, comptroller, or the state, has
21 been authorized to issue bonds. The bonds have not yet

1 been issued. The question is: Does the pre-existing
2 authority, statutory authority to issue the bonds,
3 continue after the death of the old Constitution, or does
4 the authority to issue the bonds now depend upon the new
5 Constitution?

6 This section is intended to say that with
7 respect to the bonds heretofore authorized, but not issued,
8 when bond counsel look at the requirements of the law to
9 see whether or not the requirements have been complied with,
10 they will look at the law in effect when the bonds were
11 authorized, and not the law in effect now.

12 Delegate Grant.

13 DELEGATE GRANT: I follow you. I think with
14 that statement in the record it should be sufficient, then.

15 THE CHAIRMAN: Any other questions concerning
16 Section 42?

17 Delegate Penniman.

18 DELEGATE PENNIMAN: Not concerning 42, but
19 in section 36, there is a cross reference which I believe
20 is wrong, on line 12. I think it should read "In Section
21 5.24."

1 DELEGATE HARDWICKE: That is correct. We have
2 made a note of that, and I hope that you will too, Delegate
3 Penniman.

4 THE CHAIRMAN: Line 12, 5.25 should read
5 5.24.

6 DELEGATE HARDWICKE: That is correct.

7 THE CHAIRMAN: Any other questions as to
8 any of the sections in the schedule of transitional
9 provisions?

10 If not, the Chair thinks this is a convenient
11 place to break. We will resume after the lunch recess for
12 consideration of the schedule on legislation.

13 First the Chair recognizes Delegate Powers.

14 DELEGATE POWERS: Mr. Chairman, I move
15 that the Committee of the Whole rise, and report that it
16 has not concluded its consideration of Committee Recommenda-
17 tion No. GP-13

18 THE CHAIRMAN: Is there a second?

19 (The motion was duly seconded)

20 THE CHAIRMAN: All in favor signify by saying
21 Aye. Contrary, No. The Ayes have it, and it is so

1 ordered.

2 (Whereupon, at 1 o'clock p.m., the Committee
3 of the Whole rose.)

4 (The mace was replaced by the Sergeant at
5 Arms.)

6 THE PRESIDENT: The Convention will come to
7 order.

8 On behalf of the Committee of the Whole, the
9 Chair reports that the Committee has had under consideration
10 Committee Recommendation GP-13; that it still has it
11 under consideration, and it desires leave to sit again.

12 Any announcements by committee chairmen?

13 Delegate Storm.

14 DELEGATE STORM: Mr. President and fellow
15 delegates, I rise on a point of personal privilege.

16 THE PRESIDENT: State the privilege.

17 DELEGATE STORM: In the gallery there are three
18 people. We welcome all of them. I would especially like
19 to recognize the young lady who is responsible for my being
20 here, that is my partner in my law office, Mary Storm, who
21 is in the blue dress just above the rostrum. I would

1 like for you to give her a welcome. (Applause)

2 THE PRESIDENT: Delegate Sickles.

3 DELEGATE SICKLES: Mr. President, I would
4 like to ask all the delegates to this Convention from
5 Prince Georges County to join with me immediately upon our
6 recess in the Senate Chamber for about five minutes.

7 THE PRESIDENT: Any other announcements?

8 Do not forget that immediately after the
9 luncheon recess we will have the formal photograph of
10 the Convention.

11 This is the final chance to have your photo-
12 graph taken. Return very promptly from lunch, assemble
13 quickly, take your seats, so that we can move on.

14 All delegates present now and not present at
15 roll call may indicate their presence at supplemental
16 roll call.

17 The Clerk will record the supplemental roll
18 call.

19 The Chair recognizes Delegate Powers.

20 DELEGATE POWERS: Mr. President, I move that
21 we recess until 2 o'clock.

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THE PRESIDENT: Is there a second?

(The motion was duly seconded)

THE PRESIDENT: All in favor signify by saying
Aye. Opposed No. The Ayes have it, and it is so ordered.

(Whereupon, at 1:05 o'clock p.m., the
Convention recessed, to reconvene at 2 o'clock, p.m., of
the same day)

A F T E R N O O N S E S S I O N

January 4, 1968 - 2:15 p.m.

THE PRESIDENT: The Sergeant-at-Arms will
clear the aisles, and close the doors.

The Convention will please come to order.

Roll call.

The Clerk will record the roll call.

There being a quorum present, the Convention
is in session.

Are there any motions or resolutions?

The Chair recognizes Delegate Powers.

DELEGATE POWERS: Mr. President, I move
the Convention resolve itself into the Committee of the
Whole for the purpose of considering general orders of
the day.

THE PRESIDENT: Is there a second?

(The motion was duly seconded)

THE PRESIDENT: All in favor signify by
saying Aye. Contrary No. The Ayes have it, and it is so
ordered.

(Whereupon, at 2:20 o'clock p.m., the
Convention resolved itself into the Committee of the
Whole.)

(The mace was removed by the Sergeant-at-
Arms.)

THE CHAIRMAN: The Committee of the Whole
will please come to order.

Delegate Boyer, Delegate Hardwicke. There
will be a few minutes before the photographers are set
up. I would like to move ahead with the consideration of
the article.

We had concluded the presentation and questions
with respect to the schedule of transitional provisions.
We are now on the schedule of legislation, page 15. Are
there any questions as to the preliminary paragraph beginning
on line 3 of page 15?

The Chair hears none.

Are there any questions as to section 1?

Any questions as to section 2?

Section 3?

Section 4?

1 Section 5?

2 Section 6?

3 Section 7?

4 Section 8?

5 Section 9?

6 Delegate Fornos.

7 DELEGATE FORNOS: Mr. Chairman, I have an
8 amendment to section 9.

9 THE CHAIRMAN: We are calling for questions
10 at this time. We haven't come to the amendments yet.

11 Delegate Mason.

12 DELEGATE MASON: Mr. Chairman, with respect
13 to section 8, I understand you to say that the legislature
14 could change this enactment the day after the Constitution
15 was enacted, but wouldn't that be in conflict with the
16 provision in the Constitution that you can't reduce salaries
17 in the executive branch or increase them?

18 THE CHAIRMAN: The legislature could change
19 this provision the day after, but it would not be effective
20 as to the Governor then in office. It could be effective
21 only as to a Governor not then in office for the future.

1 Any other questions as to section 8?

2 Section 9?

3 Delegate Maurer.

4 DELEGATE MAURER: Delegate Hardwicke, does
5 the provision that the Governor shall nominate by and with
6 the advice and consent of the Senate mean that on all
7 appointments that are created in statute, which they
8 would say, appointed by the Governor, would carry with it the
9 advice and consent of the Senate, or is it on a narrower
10 base; just those positions which are not otherwise described
11 by law?

12 DELEGATE HARDWICKE: Delegate Maurer, this
13 is the exact language that appears in Article 2, Section
14 10 of the present Constitution, and it is intended to
15 continue until the legislature has an opportunity to
16 act in this field. It is intended to continue that as a
17 statutory measure.

18 THE CHAIRMAN: I think Delegate Maurer's question
19 was whether or not this would apply to any officer whose
20 method of appointment is prescribed by law.

21 Is that your question?

1 DELEGATE MAURER: One of the questions, yes,
2 sir.

3 DELEGATE HARDWICKE: That is correct.

4 THE CHAIRMAN: I am afraid the answer isn't
5 correct the way I put the question.

6 Does it apply to officers if the method of
7 appointment is prescribed by statute, if a different
8 method of appointment is prescribed by statute?

9 DELEGATE HARDWICKE: If a different method
10 is prescribed by statute, that different method would be
11 used.

12 THE CHAIRMAN: Delegate Maurer.

13 DELEGATE MAUERER: In the Constitution it
14 mentions appointed by the Governor as to commissions.
15 Does that mean by the Governor alone, or does this carry
16 the implications if the Governor appoints he must also
17 appoint with the advice and consent of the Senate?

18 DELEGATE HARDWICKE: No.

19 THE CHAIRMAN: Any other questions?

20 Delegate Adkins.

21 DELEGATE ADKINS: Along that same line -- and

1 I don't think it is inherent in the question that Delegate
2 Maurer just asked -- section 4.30 provided that all persons
3 in the executive branch whose method of appointment is not
4 specifically specified shall be appointed and may be
5 removed as prescribed by law. Am I to conclude that section
6 9, when it refers to the words "whose appointment or elec-
7 tion is not otherwise provided for in the Constitution",
8 do the words, in other words, will the people intended to
9 be covered by 4.30 also be people who are provided for in
10 the Constitution, although the Constitution in 4.30 says
11 specifically that they shall be appointed and removed
12 as provided by law?

13 I am not sure that there is an inconsistency
14 but I think there may be, and I want to be quite clear that
15 this transitional provision does not require that all
16 gubernatorial appointments shall be approved by the Senate
17 if they are appointed pursuant to section 4.30.

18 THE CHAIRMAN: Delegate Hardwicke.

19 DELEGATE HARDWICKE: It seems to me, Delegate
20 Adkins, that in section 9, what we are saying here is that
21 the Governor will nominate, and with the advice and consent

1 of the Senate appoint all the officers of the state, unless
2 there is a method differently provided for in this
3 Constitution, or unless there is a different method
4 prescribed by law, so that the first clause in section 9
5 will govern except for different methods provided for in
6 the Constitution, or by law.

7 Now, as to 4.30: it seems to me that 4.30 stands
8 on its own feet, and the express terms that are set out in
9 4.30 would govern all appointments under the Constitution
10 that are made pursuant to it.

11 THE CHAIRMAN: Delegate Adkins, it seems also
12 to the Chair that there is a consistency inasmuch as
13 section 9 refers to officers of the state whose appointment
14 or election is nototherwise provided for in the Constitution,
15 and I take it that means literally appointment and election
16 provided for, whereas 4.30 doesn't provide for appointment
17 or election, but provides a method to provide for appoint-
18 ment or election.

19 Delegate Adkins.

20 DELEGATE ADKINS: I think 4.30 is intended
21 to cover the general bulk of personnel in the executive



1 department unless specifically provided in this
2 Constitution.

3 THE CHAIRMAN: Yes. My point is that
4 in section 9, what is intended, the reference intended
5 is to provisions in the Constitution providing specifically
6 for appointment or election of officers.

7 Section 4.30 is not that kind of a provision.
8 Section 4.30 itself provides for a method by which the
9 General Assembly designates how the officers shall be
10 appointed or elected . It does not in itself provide how
11 the officers shall be appointed or elected.

12 Delegate Adkins.

13 DELEGATE ADKINS: I take it it is clear, so
14 far as the Chair and the Chairman of the reporting
15 committee are concerned, that section 9 does not provide
16 that personnel not specifically provided for in the
17 Constitution need to be confirmed by the Senate.

18 That is the only point I want to make clear on
19 the record.

20 THE CHAIRMAN: I think that is clear - that
21 is the intent.



1 Any other questions as to section 9?

2 Section 10?

3 Delegate Grant.

4 DELEGATE GRANT: Section 10, I wonder if you
5 would express exactly what it means. Section 10 appears
6 to be literally old section 15 of article 2 of the former
7 Constitution just put in the new Constitution, and it
8 refers to civil officers.

9 Would you define what you mean by "all civil
10 officers received appointment from the executive"?
11 Specifically, do you mean state level officers, local offi-
12 cers, people who received commissions, and so forth and
13 so on?

14 DELEGATE HARDWICKE: I think it is intended to
15 cover any officer to receive an appointment from the
16 executive for a term of years. It would be any non-military
17 person who received an appointment from the executive.
18 This is all of them. This can be changed by law, and it is
19 only intended to cover the interim until the legislature
20 has an opportunity to act.

21 THE CHAIRMAN: Delegate Grant.

1 DELEGATE GRANT: That is if full recognition
2 of the fact that 4.30 is much broader than just civil
3 officers appointed. It includes elected as well as
4 appointed officials for removal purposes.

5 DELEGATE HARDWICKE: That is correct, but I
6 don't think they are inconsistent.

7 DELEGATE GRANT: No, I don't think unless by
8 civil officer you meant something other than a state level
9 official?

10 DELEGATE HARDWICKE: I would consider that
11 civil officers who had received their employment from the
12 Governor would include a state level official.

13 THE CHAIRMAN: Delegate Grant.

14 DELEGATE GRANT: I think that would clarify
15 it.

16 THE CHAIRMAN: Any other questions as to
17 section 9?

18 Section 10?

19 Section 11?

20 Section 12?

21 Section 13?

1 Section 14?

2 Section 15?

3 Delegate Rybczynski.

4 DELEGATE RYBCZYNSKI: Mr. Chairman, I would
5 like to know the extent of section 15.

6 THE CHAIRMAN: What do you mean by the
7 extent?

8 DELEGATE RYBCZYNSKI: Does this simply mean
9 that there will be a permanent record in a permanent
10 volume of decisions, or are we talking about stenographic
11 services? What are we talking about?

12 DELEGATE HARDWICKE: As I understand it, this
13 phrase "court of record" is a term of art, and it relates
14 to a court which keeps a permanent record of its proceedings.
15 It keeps a docket that the judgments and so forth are
16 entitled to that court are entitled to full faith and credit
17 in other states, and that kind of thing.

18 We have done a little bit of research on it,
19 and I believe that is the conclusion.

20 THE CHAIRMAN: Delegate Rybczynski.

21 DELEGATE RYBCZYNSKI: Would I be correct in

1 saying that, for instance, in the circuit level, now, we
2 have stenographic service. That is a court of record. But
3 the people's court of Baltimore City, where we have a
4 permanent docket entry, that a judgment has been rendered
5 one way or another, this becomes a record, and that would
6 be the extent of the record of district court.

7 THE CHAIRMAN: That is not correct. The
8 people's court of Baltimore City is not a court of record.
9 That is why you have to record the judgments in the
10 Superior Court of Baltimore City in order to record a
11 lien.

12 In other words, what the Court is saying is
13 that the phrase "court of record" as Delegate Hardwicke
14 indicated, is a word of art. It does not refer to the question
15 of whether or not there is a court stenographer. Circuit
16 Courts have always been courts of record, and yet for many
17 years they did not have court stenographers.

18 Any other question as to section 15?

19 Section 16?

20 Section 17?

21 Section 18?

1 Section 19?

2 Section 20?

3 Section 21?

4 Delegate Fornos.

5 DELEGATE FORNOS: Could you tell me whether we
6 have to put section 21 and section 22 in the transitional
7 legislation?

8 Is there any mandatory reason why we should
9 have it in here?

10 THE CHAIRMAN: This is not in the transitional
11 legislation; this is in the schedule of legislation.

12 DELEGATE HARDWICKE: Delegate Fornos, this
13 places a ceiling on the judicial salaries; bear in mind
14 that when we set up our new court system the state is going
15 to have to take over all of these salaries, and it was
16 our purpose here to put a ceiling on them so that you could
17 not have local supplementation which would greatly
18 impair the ability of the State to pay these salaries.

19 DELEGATE FORNOS: We spelled that out in the
20 judicial article that there will be no more supplementation --

21 THE CHAIRMAN: Delegate Fornos, I don't believe

1 you followed the ~~answer~~ of Delegate Hardwicke. Could you
2 state it again, Delegate Hardwicke?

3 DELEGATE HARDWICKE: The purpose here is to
4 provide a ceiling on these salaries, so that you cannot
5 have in the interim period a salary increase which would
6 create an undue obligation on the part of the state.

7 THE CHAIRMAN: In other words, a salary increase
8 before the new Constitution takes effect.

9 DELEGATE HARDWICKE: That is right. If you
10 have a salary increase in June or, say, during the coming
11 session of the legislature, which takes them up over these
12 points, and the new Constitution wouldn't be in effect
13 until such a time, this would cut it down no matter what it
14 was raised to, when the Constitution goes into effect.

15 THE CHAIRMAN: Delegate Fornos.

16 DELEGATE FORNOS: Where does it say so in
17 section 21?

18 DELEGATE HARDWICKE: It says this is what
19 the salaries will be, regardless of what was done on another
20 basis.

21 THE CHAIRMAN: Delegate Fornos.

1 DELEGATE FORNOS: If the legislature didn't act
2 on the Legislative Council's proposal to raise judicial
3 salaries in the coming session, then this section 21 would
4 have the effect of raising judicial salaries; is that
5 correct?

6 DELEGATE HARDWICKE: That is correct.

7 THE CHAIRMAN: Delegate Fornos.

8 DELEGATE FORNOS: If we didn't raise these
9 salaries, the legislature could very well raise them in
10 this coming session anyhow, couldn't they?

11 So it isn't really necessary to do it in the
12 package for the Constitutional Convention.

13 DELEGATE HARDWICKE: Not necessary for the
14 reasons you named, but necessary for the reasons I named.
15 This has the effect of putting a ceiling which cannot be
16 violated by virtue of local acts.

17 THE CHAIRMAN: Delegate Fornos, maybe this
18 comment would help clarify it:

19 You have two provisions under the Constitution
20 which must be considered together. One is that the salary
21 shall be paid entirely by the state, without supplementation

1 locally. The other, and equally important in this aspect,
2 is that they shall be uniform. The salaries are not now
3 uniform, so that you have a problem of accomplishing at the
4 same time payment of all salaries at the statewide level,
5 and at a uniform rate.

6 This is what creates a problem as to which
7 these sections are directed.

8 Delegate Fornos.

9 DELEGATE FORNOS: I am aware of both of the
10 sections. It is a mandate to the assembly for uniform
11 legislation. I think it is a legislative matter. I don't
12 think we ought to get bogged down.

13 Is there any other reason that has escaped
14 me?

15 THE CHAIRMAN: I think you are still missing
16 the relevancy of the point.

17 Delegate Hardwicke has pointed out to you
18 that when the new Constitution takes effect, and says that
19 all salaries shall be uniform for the same level of the
20 judiciary, and when it provides that they shall be paid
21 entirely by the state, and when you also consider the fact

1 that a judicial salary cannot be reduced, those three
2 provisions taken together would automatically raise the lowest
3 judicial salary in any tier automatically to the highest
4 salary. Do you follow? If a judge in Prince Georges
5 County has a salary of \$30,000, and a judge in Caroline
6 County has a salary of \$20,000, when the Constitution
7 takes effect, and the Constitution provides that thereafter
8 all salaries of judges of the Superior Court shall be the
9 same, shall all be paid by the state, and no salaries
10 shall be reduced, you can accomplish that objective only
11 by increasing the Caroline County salary to the Prince
12 Georges County salary, as otherwise to get uniformity
13 you would have to reduce the Prince Georges County salary.

14 Since you cannot do that, you automatically
15 increase all salaries to the highest salary in effect.

16 If there were no provision in the legislation,
17 local supplementation on a temporary basis could increase
18 salaries so that when the new Constitutional provisions
19 took effect, it would automatically increase all judicial
20 salaries to the highest level of any of them, as supplemented
21 at the time the Constitution took effect.

1 Delegate Fornos.

2 DELEGATE FORNOS: If that is true, is there
3 any judge presently being paid more than a Court of
4 Appeals judge?

5 THE CHAIRMAN: Oh, yes.

6 DELEGATE FORNOS: What judge in the State
7 of Maryland is getting more than a Court of Appeals judge?

8 THE CHAIRMAN: The Court of Appeals judge
9 on the new basis. I am not sure. This was true.

10 Delegate Hardwicke, do you know?

11 DELEGATE HARDWICKE: It is not true on the new
12 basis.

13 THE CHAIRMAN: Delegate Fornos.

14 DELEGATE FORNOS: Rather than equalizing the
15 salaries, are we not really raising the salaries of the
16 Court of Appeals, and also the Court of Intermediate
17 Appeals, and also the Circuit Court?

18 DELEGATE HARDWICKE: Yes. You are raising them
19 to the level of the highest paid judge in that tier in the
20 present system.

21 THE CHAIRMAN: Delegate Fornos.

1 DELEGATE FORNOS: Was there a present Court
2 of Appeals Judge in that tier that was making 35, and your
3 answer was negative?

4 THE CHAIRMAN: No, I don't think that was your
5 question. Your question was: was there any judge receiving
6 more than a Court of Appeals Judge's salary, and the
7 answer to that was no.

8 DELEGATE FORNOS: My next question was whether
9 any Court of Appeals judge is presently receiving \$35,000
10 a year.

11 DELEGATE HARDWICKE: We took the figures that
12 are in the legislative council bill. The rationale is
13 that we are approximately the highest judge. In some
14 cases we have gone somewhat over the highest to preserve
15 a differential. We felt there should be a significant salary
16 between the Court of Appeals judge and the judge in the
17 Intermediate Court. I am not sure -- do you want to
18 frame your question again, Delegate Fornos?

19 DELEGATE FORNOS: I am questioning whether
20 it is necessary for us to increase, as part of the package
21 of the Constitutional Convention, the judicial salaries,

1 or whether we should not just adhere to the two principles
2 that have been spelled out in the judiciary article (a) that
3 they should be uniform and there shall be no supplementation
4 and leave it to the legislature to implement it in view
5 of the fact that they have the legislative authority to do
6 so.

7 That was my question.

8 DELEGATE HARDWICKE: Well, Delegate Fornos,
9 I can only repeat the answer that I gave you originally,
10 and that is that we are afraid that the counties, by
11 inflating the salaries on a local basis, can with that
12 inflation, coupled with the fact that you can't increase
13 that salary during the term of office, that those two
14 factors put together could compel us when the new
15 Constitution goes into effect, to have the state pick up an
16 artificially high salary across the line.

17 We don't intend that.

18 THE CHAIRMAN: Delegate Fornos.

19 DELEGATE FORNOS: Couldn't we state that in
20 one paragraph rather than setting figures for what is
21 indeed a salary increase for the whole judiciary?

1 DELEGATE HARDWICKE: I suppose you could, but
2 it seems to me that this is a sensible and clear way to
3 express it.

4 THE CHAIRMAN: Delegate Fornos.

5 DELEGATE FORNOS: Do you know what the cost
6 of the judiciary program is going to be under this new
7 system?

8 DELEGATE HARDWICKE: Including all four tiers,
9 and assuming that the District Court judges pick up
10 approximately the same workload as your magistrates, and
11 so forth, you are talking about a total figure beginning
12 at about 1971 of around \$837,000 in total ---

13 THE CHAIRMAN: I think we will have to
14 suspend for a few moments to let the photographer take his
15 pictures.

16 Will all delegates please take their seats?
17 Will all other persons please leave the Chamber?

18 For what purpose does Delegate White rise?

19 DELEGATE WHITE: Mr. Chairman, I have
20 a point of inquiry and a point of personal privilege.

21 THE CHAIRMAN: State the personal privilege.

1 DELEGATE WHITE: The personal privilege,
2 Mr. Chairman, I would like to announce that 54 years ago
3 an attempt was being made in the Post Office to force Negroes
4 out of the service, and in an effort to survive an
5 organization came into existence which was known as the
6 National Alliance of Postal and Federal Employees, the
7 latter name, "Federal", was included several years ago.

8 This group met at the foot of Lookout Mountain
9 in Tennessee, and they have successfully managed to overcome
10 the unfriendly forces which decided that once the mail
11 cars, which were made of wood initially, and which were
12 very hazardous, and which had now become steel cars and
13 were safe, that they have become jobs for white postal
14 employees.

15 Mr. Chairman, I lead up to the point that
16 in the gallery we have the national President of this great
17 independent union, which has now grown to 45,000 members
18 throughout the country.

19 We have President Ashby G. Smith
20 Illinois, who is domiciled in Washington, D. C. To his
21 left is William Bradley, his administrative aide, who is

1 from New Orleans, Louisiana, and to his right is my good
2 friend Leon Henderson, from Falls Church, Virginia.

3 Mr. Chairman and members of this Convention,
4 I ask you to give them a very warm welcome. (Applause)

5 And, Mr. President, the point of information
6 is apropos at this moment. It concerns the pictures.

7 THE CHAIRMAN: State the inquiry.

8 DELEGATE WHITE: I would like to find out, Mr.
9 Chairman, will this picture be black and white, or will
10 it be colored. (Laughter and applause).

11 THE CHAIRMAN: Will all delegates take their
12 seats, and will all the other persons except the
13 troopers leave the room.

14 Will the desk officers take their seats?

15 The Sergeant-at-Arms will see if there are
16 any delegates in the lounge.

17 (Whereupon, the Committee of the Whole
18 suspended for a few minutes to have photographs taken)

19 THE CHAIRMAN: For what purpose does Delegate
20 White rise?

21 DELEGATE WHITE: Mr. Chairman, there is poor

1 visibility in this corner. In that picture we didn't
2 show up too well. I am willing to sit for another slide
3 if he will move the camera.

4 DELEGATE GALLAGHER: Mr. Chairman, we will be
5 happy to provide a single-member photograph for the
6 gentleman.

7 THE CHAIRMAN: Delegate Harry Taylor.

8 DELEGATE H. TAYLOR: Mr. Chairman, Delegate
9 Lloyd Taylor has told me that since he has been down here
10 at the Convention, he has read everything that has come
11 across his desk, and in addition to that he has somewhat
12 of a library that he keeps in his desk that he reads
13 in between time.

14 He has gotten very little sleep for the last
15 three and a half months, and as a result of that he was
16 wondering -- he will make some effort to retouch them
17 so that those circles won't show, because he has gotten some
18 complaints from his constituents in the Second District.

19 In addition, we have taken a poll of the back
20 row, and we have decided, somehow or other, maybe by
21 chance, that the best-looking, or most intelligent members

1 of the Convention are sitting in the back row.

2 In the last group photograph that we had, you
3 could barely see us, so I have been asked to ask the
4 photographer if he will, after taking a photograph of the
5 whole Convention, come back and take a picture of the back
6 row.

7 THE CHAIRMAN: Delegate White, it has also been
8 suggested to the Chair, in answer to your earlier query,
9 that by reason of Delegate Lloyd Taylor's request, this
10 is a picture in color.

1 THE CHAIRMAN: It is a bit startling to the
2 Chair, at least, to see the entire staff assembled as
3 they were for a picture a few moments ago when you
4 realize that that staff you saw is only the professional
5 staff. That is to say, not including the stenographic
6 staff. There are fifty members of the professional staff
7 at this time. I understand the problems involved in
8 retaining such a staff and perhaps none of us understand
9 why perhaps it takes us so long to get some of the
10 material that we want out very quickly. It takes a
11 great deal of man power to support a Convention that is
12 moving as rapidly as this one is and accomplishing as
13 much.

14 Delegate Marion.

15 DELEGATE MARION: Mr. President, if you were
16 startled just think how Delegate Malkus would have felt
17 had he been here today.

18 THE CHAIRMAN: Is Delegate Rybczynski in the
19 room?

20 DELEGATE RYBCZYNSKI: Yes, sir.

21 THE CHAIRMAN: The Chair hates to admit it, but

1 you are younger than I am and the Chair was by reason
2 of that fact in error in stating in response to an
3 inquiry a few moments ago that the Peoples' Court of
4 Baltimore City was not a court of record. The Consti-
5 tution provides as follows: Unless otherwise provided
6 by law, Peoples' Court shall not be a court of record.

7 When I started to practice law the Peoples'
8 Court was not a court of record. I am told that it was
9 made so by law some ten years ago. I feel very old.

10 DELEGATE RYBCZYNSKI: Which part do you hate
11 to admit, Mr. President, the part about my being younger
12 or the error?

13 THE CHAIRMAN: Touche.

14 Are there any further questions as to Section
15 21?

16 Delegate Della.

17 DELEGATE DELLA: Delegate Hardwicke, Section
18 21, there is no different recommendation in salaries
19 between the Chief Judge and the Associate Judge. Is
20 there any reason for that?

21 DELEGATE HARDWICKE: I understand that there is

1 a difference now. The Committee felt that there was no
2 need for any requirement that there should be a difference.
3 It would probably run afoul of the constitutional provision
4 against differentiating between the salaries of the
5 judges at the same level which we have already passed
6 through this Convention.

7 In other words, since the Chief Judge is a
8 judge on the highest level and since we have to pay all
9 the judges on that level the same salary, we would run
10 afoul of the present constitutional prohibition in
11 differentiating in salary at any level.

12 THE CHAIRMAN: Delegate Della.

13 DELEGATE DELLA: The Chief Judge has different
14 duties from the Associate Judge. He is administrative
15 officer of the court, and I think he has been recognized
16 as such. That is the reason for the increase in pay,
17 which is a nominal sum, but only as recognition of his
18 position.

19 DELEGATE HARDWICKE: I suppose that I have
20 said that your quarrel is with the way we put the
21 provision through in the main constitutional provisions

1 relative to judges' salaries, and I think that if you want
2 to take care of the point you are making you would have
3 to amend that provision to permit us to differentiate
4 with regard to the Chief Judge.

5 THE CHAIRMAN: Delegate Della, Delegate Hardwicke
6 is speaking of the provision in the proposed Constitution,
7 which this Convention has adopted.

8 Delegate Gleason, do you have a question as
9 to an earlier section?

10 DELEGATE GLEASON: Do you want to finish 21
11 first?

12 THE CHAIRMAN: We will come back to it.

13 DELEGATE GLEASON: Delegate Hardwicke, in
14 reading the Transitory Legislation on Section 14 with
15 respect to the Board of Public Works and Board of Review,
16 it states the following: Upon termination of legal
17 existence of the Board of Public Works all its powers and
18 duties shall be vested in the Board of Review for which
19 provision is made in Article 4 of this Constitution.

20 When you look at the Constitution under
21 Section 4.24, it states the following: There shall be

1 a Board of Review in the Executive Branch. The Board
2 shall consist of, the individual whom we know, the
3 Board shall act by majority vote, shall hold its meetings
4 in public and has such powers as the General Assembly
5 may prescribe.

6 You correct me if I am wrong, but it seems to
7 me that the Transitory Legislation is transferring the
8 existing powers of the Board of Public Works to the
9 Board of Review, which, in effect, makes it imperative or
10 makes it necessary that if the General Assembly wants to
11 change such powers, it will have to take a positive act
12 and reduce those powers or cast them in some different
13 light, which, of course, I think is contrary to what the
14 provision of the Constitution says.

15 DELEGATE HARDWICKE: Delegate Gleason, I
16 call your attention to the first portion of the Section
17 14 as appears on line 47, page 19: Upon the termination
18 of the legal existence of the Board of Public Works, all
19 of the powers and duties shall be vested in the Board of
20 Review.

21 Secondly, I might point out to you that the

1 main functions of the Board of Public Works are not found
2 in Article 12 of the prior Constitution, but most of its
3 functions are statutory.

4 THE CHAIRMAN: Delegate Gleason.

5 DELEGATE GLEASON: I am well aware of that,
6 Delegate Hardwicke, but my point is that the powers
7 that are to be vested in the Board of Public Review are
8 such powers as the General Assembly shall provide by
9 law.

10 What we are providing here in Transitory
11 Legislation is that when the Board of Public Works
12 shall go out of existence, that all of those powers,
13 constitutional and statutory, shall transfer automatically
14 to the Board of Review, and so it is going to be necessary
15 -- You realize that this is an agency which heretofore
16 has been an intermediate agency, which has executive
17 and legislative duties and responsibilities attached to
18 it.

19 If all these powers are transferred to the
20 Board of Review, then, realizing we are dealing with a
21 different kind of an animal here, then if the General

1 Assembly wants to change those powers, then an act is
2 going to be subject to a gubernatorial veto, which is
3 going to require it to have to go by two-thirds vote to
4 override the veto, which is a different thing than, I
5 think, is provided in the Constitution, and, therefore,
6 I think it is a substantive change here.

7 DELEGATE HARDWICKE: The purpose of this
8 Section 14, as I understand it, is to provide during the
9 transitional legislative period for the possibility that
10 the legislature, or that the Board of Public Works, may
11 pass out of existence and that we are trying to encourage
12 this to occur and to encourage the creation of the Board
13 of Review, which would pick up these functions prior
14 to the time that the Board of Public Works must pass out
15 of existence in 1971.

16 THE CHAIRMAN: Delegate Gleason.

17 DELEGATE GLEASON: Mr. President, Delegate
18 Hardwicke, I suggest to you that is a substantive change,
19 was not decided by the Committee of the Whole. It is
20 completely different than anything we discussed with
21 respect to that provision when it was on the floor, and

1 that is a legislative decision which we left to the
2 General Assembly.

3 THE CHAIRMAN: Delegate Gleason, I am not sure
4 that I followed an earlier part of your question, and
5 maybe Delegate Hardwicke is having the same problem.

6 Under Section 4.24, the powers of the Board of
7 Review are to be prescribed by the General Assembly by
8 law, which means by law, subject to gubernatorial veto.

9 Under Section 14 we are, in effect, providing
10 by law temporarily that the powers conferred upon the
11 Board of Review are the same powers presently conferred
12 by law upon the Board of Public Works.

13 Is your point that Section 14 is not subject
14 to gubernatorial veto?

15 DELEGATE GLEASON: Section 14 of the transitory
16 legislation?

17 THE CHAIRMAN: Yes.

18 DELEGATE GLEASON: No, that is not my point.
19 It is not subject, I presume. That is not my point.

20 THE CHAIRMAN: But it is subject to amendment
21 by the General Assembly.

1 DELEGATE GLEASON: Yes. My point is this:
2 That you started out your statement by saying that under
3 Section 4.24 the Board of Public Review must be created
4 and it must have such powers as the General Assembly
5 shall prescribe, but there also is another effect of
6 that provision that the Board of Public Works goes out of
7 existence.

8 THE CHAIRMAN: Let me see. I think I under-
9 stand your point now. Let me state it and see if I
10 do. What you are saying is that under 4.24, the contemplation
11 is that before the Board of Review has any powers, they
12 must be prescribed by law subject to gubernatorial
13 veto and that what we are doing in Section 14 is the
14 converse. We are conferring upon them powers which can
15 be taken away only by law, subject to gubernatorial veto.

16 Is that your point?

17 DELEGATE GLEASON: That is my point, Mr.
18 President. I think what we are doing, it would be very
19 difficult for the General Assembly to take a whole fresh
20 look at this Board of Review because after all now,
21 they don't have their own representative on it and it

1 may be that they may want to really cut down the power
2 of this new board, and I don't think they can effectively
3 do that unless they have the votes to overturn the
4 gubernatorial veto. That is different from what the
5 provision provides for.

6 The
THE CHAIRMAN:/ only solution to the problem
7 that you raise, I take it, would be to omit a provision
8 such as this so that it would be imperative that the
9 General Assembly act before the Board of Review came
10 into existence. Otherwise, it would have no powers.

11 DELEGATE GLEASON: That is precisely my
12 solution.

13 THE CHAIRMAN: I think, Delegate Hardwicke,
14 Delegate Gleason's point is well taken and perhaps should
15 be considered further.

16 DELEGATE HARDWICKE: Mr. President, let me
17 point out a couple of things. First of all, the Board of
18 Review provision is a delay provision, I believe until
19 January of 1971, and, as I recall it, our purpose in
20 Section 14 was to encourage the General Assembly, by
21 voluntary act, to create a Board of Review at an earlier

1 date or to recognize that they might do so and was to
2 provide that in case they did so, that the functions of
3 the Board of Public Works would be transferred to the
4 Board of Review.

5 There is also a second function here, and that
6 is the material on page 20, beginning at line 3, which
7 provides that, contractually speaking, where you have the
8 Board of Public Works referred to in legislation, contracts,
9 et cetera, that the reference would also be determined
10 to mean the Board of Review insofar as it would go. It
11 seems to me that you could conceivably argue that this
12 section doesn't serve any useful purpose, but I can't say
13 it does any harm.

14 THE CHAIRMAN: Might I suggest since the question
15 has made the point clear at this point, I think this is
16 a matter that the Committee on the Executive Branch should
17 give some thought to before we come to the point of
18 debating the section. I don't think now is the time
19 to do it.

20 Are there any further questions as to that
21 section, Delegate Gleason?

1 Delegate Sherbow.

2 DELEGATE SHERBOW: I simply want to point out
3 that there are continuing obligations by the Board of
4 Public Works as they relate to outstanding bond issues
5 and bond issues which have been authorized between now
6 and the time when the Board of Public Works goes out of
7 existence in January of 1971. It seems to me that
8 perhaps this is something that is the reason why Section
9 14 is written as it is, and then in the other provisions,
10 the combination of the Board of Review succeeding the
11 Board of Public Works so when we give a look at it they
12 bore this in mind.

13 THE CHAIRMAN: The point that Delegate Gleason
14 was making to the extent the Chair understands it does
15 not refer to the powers conferred upon or retained in
16 the Board of Public Works. His point has to do with the
17 transfer of the powers to the Board of Review after the
18 Board of Public Works has ceased to exist.

19 Any other questions?

20 Delegate Adkins.

21 DELEGATE ADKINS: I might add a footnote to

1 this discussion. I discussed the matter with Delegate
2 Morgan. It seems to at least some of the members of
3 the Executive Branch Committee that if this is not
4 included a potentially chaotic situation could develop
5 in view of the fact that the Board of Public Works has
6 become so engaged with such powers over a wide area. If
7 it were left out without any residual hole, so to speak,
8 for the powers which are now in the Board of Public
9 Works, to let the legislature, if per chance the legislature
10 failed to act, I think the word chaotic is not too loose
11 a term to use, that a chaotic situation could result.

12 For that reason, although I think Delegate
13 Gleason is quite right in his analysis, it seems to some
14 of the members of the Executive Committee at least that
15 it is better to vest these powers in the new Board of
16 Review, subject to the right of the legislature to with-
17 draw, rather than leaving the hiatus which might exist
18 if the legislature failed to act.

19 For that reason, I think that at least, while
20 I am not authorized to speak for the Committee, some of
21 the members of the Committee would feel that this

1 provision ought to continue.

2 THE CHAIRMAN: The Chair did not mean to
3 suggest that the provision ought to come out. I
4 merely suggested that the point is well taken in the
5 sense that it is well to note it. It is in existence.

6 My suggestion is that the Executive Committee
7 be thinking about it before we reach debate on that
8 point so that there could be some consensus for the
9 advice of the rest of the Committee of the Whole.

10 We have passed on down to Section 21. Are
11 there any questions?

12 Delegate Grant?

13 DELEGATE GRANT: I had one question on 21.

14 As I understand it, the salaries now on the
15 upper tier judges, there is no problem because they are
16 already in office.

17 However, in point "D" you provide for salary
18 of the district court offices and it indicates that that
19 salary will not be computed until January 1st, 1970, and
20 since there are no district court judges in office, would
21 this mean that the General Assembly could change that

1 salary or is the very fact that there are some Peoples'
2 Court judges who are going to become district court
3 judges, does that operate to prevent that?

4 DELEGATE HARDWICKE: Delegate Grant, the
5 problem is that you have a number of Peoples' Court
6 judges who are full time judges who will be continued
7 in office as district court judges. We have the same
8 principle with regard to this problem as we have with the
9 upper three tiers.

10 Therefore, we want to prevent the inflationary
11 factor with regard to the lowest tier also.

12 DELEGATE GRANT: My problem is simply, it
13 is considered that although they are now sitting as
14 Peoples' Court judges, that they are, in fact, sitting
15 as district court judges, and, therefore, even though
16 this section does not become effective until 1970, they
17 are in the term of office, and, therefore, could not have
18 this salary scale changed?

19 (Whereupon, Delegate James assumed the Chair.)

20 THE CHAIRMAN: Delegate Hardwicke.

21 DELEGATE HARDWICKE: That is an interesting

1 argument. I don't think that would be the way it would
2 be treated. I just feel very certain that they would
3 not be district court judges until that court comes into
4 existence, until they assume that new role.

5 THE CHAIRMAN: Delegate Grant.

6 DELEGATE GRANT: This being the case, then the
7 General Assembly could modify Section D.

8 THE CHAIRMAN: Delegate Hardwicke.

9 DELEGATE HARDWICKE: Yes.

10 THE CHAIRMAN: Delegate Taylor.

11 DELEGATE LLOYD TAYLOR: Delegate Hardwicke,
12 this pertains to Section 22. At the present time if a
13 judge is in service and when you calculate his pension at
14 the rate of one thousand three hundred dollars per
15 annum each year, when do you start calculating his
16 pension? Would you start in 1970 or would you start
17 prior to 1970, if he is in service at this time?

18 DELEGATE HARDWICKE: You take the total years
19 of service and you calculate. It doesn't make any difference
20 when you start. It is the total time he has been in
21 service, but there is a cut off you will see under the

1 one thousand three hundred in the amount of twenty-three
2 thousand three hundred thirty-three dollars. Under the
3 old legislation, instead of a figure cut off we have a
4 number of years, which multiplies out to the same figure.
5 If you are talking about a judge that is in a court as
6 of now, and is continued over to another court, you use
7 both services. That is to say, he gets credit for both
8 judicial offices.

9 DELEGATE LLOYD TAYLOR: I see.

10 Also, is this a contributory pension or non-
11 contributory pension? Are any of the judges salaries
12 deducted for the amount of the pension?

13 DELEGATE HARDWICKE: No. This is not a
14 contributory pension plan. It is strictly borne by the
15 State.

16 THE CHAIRMAN: Delegate Taylor.

17 DELEGATE LLOYD TAYLOR: Also, it says that the
18 pension is calculated at the rate of one thousand three
19 hundred dollars per annum for each year. If the Judge
20 is ill, do you consider inasmuch as he is ill, an act of
21 his service?

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1 DELEGATE HARDWICKE: Yes.

2 LLOYD TAYLOR: For instance, if he was ill for,
3 say, five years, continuously, three months out of the
4 year he was ill, that would still be included in his
5 pension calculation?

6 DELEGATE HARDWICKE: If during such period of
7 time he held the office of judge, it would be.

8 DELEGATE LLOYD TAYLOR: During the time that
9 a judge is disabled, do you provide a means of compensating
10 a judge for his period of illness? Is he compensated for
11 his illness?

12 DELEGATE HARDWICKE: When a judge is ill, he
13 he is not totally disabled, he continues to receive his
14 regular pay.

15 DELEGATE LLOYD TAYLOR: Also, the fact that a
16 judge does not have to contribute to his pension, is
17 this an exception as far as state employees?

18 THE CHAIRMAN: Delegate Hardwicke.

19 DELEGATE HARDWICKE: Yes.

20 DELEGATE LLOYD TAYLOR: One other question.

21 Suppose that two lawyers, who happened to be

1 man and wife, happened to be appointed to a judgeship.
2 One of them dies. Would the widow or the widower
3 receive her pension or his pension and the pension of
4 the dead spouse?

5 DELEGATE HARDWICKE: I yield to Chairman Mudd,
6 Chairman of the Judicial Branch Committee.

7 THE CHAIRMAN: The Chair believes there are
8 some provisions in the pension system law that put some
9 barriers against that type situation.

10 Chairman Mudd.

11 DELEGATE MUDD: I hope so, Mr. Chairman.

12 I think the best thing to do is dissuade the
13 government from creating that sort of situation.

14 DELEGATE DELLA: Mr. President.

15 THE CHAIRMAN: Delegate Della.

16 DELEGATE DELLA: Delegate Hardwicke, with
17 reference to the pensions of the district court --

18 DELEGATE HARDWICKE: Talking about Section
19 22?

20 DELEGATE DELLA: Section 22, Sub-Section B,
21 are you taking into consideration the pension that

1 the municipal court judges are now receiving and will that
2 be transferred over to the pension fund?

3 DELEGATE HARDWICKE: If they are full time and
4 they are full time.

5 DELEGATE DELLA: They are full time?

6 DELEGATE HARDWICKE: Yes.

7 DELEGATE DELLA: I think they get a pension
8 now. Will we need legislation to carry that over?

9 DELEGATE HARDWICKE: I don't think so.

10 DELEGATE DELLA: It is a different rate from
11 what you have. It is a question of whether they get the
12 number of years of service.

13 DELEGATE HARDWICKE: We have a general
14 provision that there is a credit carried over from any
15 court to the other court.

16 DELEGATE DELLA: Can you tell me where that is?

17 DELEGATE HARDWICKE: It is sub-paragraph 2,
18 page 24, sub-paragraph 2, under Section D, Delegate
19 Della.

20 THE CHAIRMAN: Delegate Hargrove.

21 DELEGATE HARGROVE: Delegate Hardwicke, the

1 present system, a judge or a person appointed judge who
2 served a period of time and is not elected, does not
3 receive a pension, does this provide for such a contingency
4 in, for example, you could serve, I think, for up to,
5 close to three years and then not be retained in office,
6 and yet, I believe, the wording of this would give you a
7 pension when you reach sixty for at least those three
8 years. Is there any provision for such a situation?

9 DELEGATE HARDWICKE: Delegate Hargrove, he is
10 entitled to the pension as soon as he commences actual
11 service. The pension is not paid, however, until he
12 reaches the age of sixty. That is in these provisions.

13 DELEGATE HARGROVE: This is somewhat different
14 from the provisions. Is that correct? I understand
15 under the present provision you do not receive a pension
16 unless you are elected?

17 DELEGATE HARDWICKE: That is correct.

18 THE CHAIRMAN: Delegate Gill.

19 DELEGATE GILL: Mr. Chairman, Delegate
20 Hardwicke, I would like to address my question to three
21 sections, 22, 23, and 24, since they all refer to the

1 judicial pension and pensions of spouses and pensions of
2 former judges. I understand that about the same system
3 exists that you have in the transitional, I mean,
4 schedule of legislation.

5 DELEGATE HARDWICKE: In general, that is
6 correct.

7 DELEGATE GILL: Would they be affected?
8 Would any of them stop if you did not include this in
9 the scheduled legislation? Would they be affected in
10 any way if we did not write this all out into the
11 legislation?

12 DELEGATE HARDWICKE: It has been our purpose
13 to make uniform throughout the state pension plans which
14 are not now uniform, and, in general, we have followed
15 the provisions of the Legislative Council Bill which
16 was designed to do that very thing, regardless of whether
17 this Constitution goes into effect, and if we fail to
18 put this legislation in and if the Legislative Council
19 Bill failed to go through, you would pick up the hodgepodge
20 of things you now have.

21 THE CHAIRMAN: Delegate Gill.

1 DELEGATE GILL: The Legislative Council Bill,
2 I think, is 2.73. We are already working on that. They
3 have the power to do that. They continually tell us they
4 are going to make all these reforms so I wonder about
5 putting it in this transition and freezing it into the
6 Constitution like this. Is it necessary?

7 DELEGATE HARDWICKE: We don't consider it is
8 frozen into the Constitution when it is in the Schedule
9 of Legislation. This is nothing more than statute law
10 which the legislature is free to change. As I am
11 sure you know, there is some uncertainty as to whether or
12 not a bill will get through the legislature or not and
13 in view of that, we feel it is best to plug that hole
14 in case it doesn't get through.

15 THE CHAIRMAN: Delegate Koger.

16 DELEGATE KOGER: My question is along the
17 same line of Delegate Gill. It is my opinion that the
18 reason for pension to spouses is because we usually think
19 in terms of a dependent woman, or if it be the widow of
20 a judge. In this particular case, do you think it is
21 the intention that in the event a woman is made a judge

1 and if a woman is judge and her husband perhaps is a highly
2 paid executive, in the event she dies, is the purpose of
3 this particular provision to continue the pension even
4 to her spouse, even if he is a man?

5 It appears to me there is an unusual burden.
6 If that is the intent, shouldn't we in some way reword
7 this particular transitory language or whatever it is we
8 are dealing with here?

9 DELEGATE HARDWICKE: Delegate Koger, I really
10 don't know how you can do it. I think we have to have
11 these provisions uniform. I recognize there may be some
12 inequality in who gets what, but we regard this as one
13 of the emoluments of the office.

14 DELEGATE KOGER: Is there any attempt made to
15 do it? In other words, the fact that it isn't done doesn't
16 mean it should be done. Is there anything you can do
17 to amend this particular language?

18 THE CHAIRMAN: Wasn't the word "spouse"
19 used in the Constitution?

20 DELEGATE KOGER: The word "spouse", yes, that
21 is used in the Constitution. I am not trying to put a

1 new interpretation in. I am trying to make sure the
2 interpretation would only mean perhaps if the spouse is a
3 woman and not a man. It should be distinguished. It
4 seems there is a burden placed upon the state to support
5 a man who is the survivor of a marriage, if he is an
6 executive with a large income. I would like to have
7 this covered. I would like to have Delegate Mudd give
8 us an interpretation of just where it is in the Consti-
9 tution.

10 THE CHAIRMAN: Delegate Mudd.

11 DELEGATE MUDD: Delegate Koger, I am in favor
12 of the woman taking care of the men, but it is not in the
13 law at present so far as I know. It is perhaps true
14 in New York to some extent, but the word "spouse" has
15 been used throughout this section in the Constitution, and
16 in the transitional provisions and the schedule of
17 legislation, and, of course, it means the surviving spouse,
18 a male judge or a female judge.

19 THE CHAIRMAN: We are trying not to discriminate
20 against anybody, I suppose.

21 DELEGATE KOGER: I am not concerned with that

1 at this point. What I am trying to get at, it seems
2 to me is it too late to do something about it?

3 In other words, if this should leak out to the
4 public that we are doing all this, and there are many
5 things we haven't done, it appears to me this isn't going
6 to be a good thing.

7 THE CHAIRMAN: Delegate Cardin.

8 DELEGATE CARDIN: Mr. President, I have a silly,
9 facetious question.

10 THE CHAIRMAN: State the question.

11 DELEGATE CARDIN: On Page 25, under Section
12 23, Section D, shall we interpret the spouse who is
13 entitled to pension under the provision of this section
14 shall be paid for the period of his life unless he
15 remarries? Do we have true equality?

16 THE CHAIRMAN: That is not consistent with the
17 word "spouse". I suppose the definition of "spouse" can
18 include both man and woman, can it not?

19 DELEGATE CARDIN: I believe the definition of
20 spouse goes both ways.

21 THE CHAIRMAN: The only thing the Chair can

1 say is there is some provision in the code, in rules of
2 interpretation, that "he" sometimes means "she" and "she"
3 sometimes means "he", so you would have to leave it
4 up to the court to make its determination.

5 It really should be clarified. Delegate
6 Hardwicke, do you want to speak to that?

7 DELEGATE HARDWICKE: Delegate Cardin, in about
8 two weeks Delegate James will be presiding in the Chamber
9 across the hall that is known as the Maryland Senate, and
10 this is just a provision of law that we have picked up
11 from the existing law. I will admit it has a little
12 problem in the fact that it contemplates a spouse will
13 be a woman. I think we ought to come down to see
14 President James to see if he can't amend this law to have
15 it read the spouse will be of either sex.

16 DELEGATE CARDIN: I began facetiously. I am
17 quite serious in the next. In the present Constitution
18 there is some terminology dealing with offices and
19 appointment and stating that where the masculine gender is
20 used it shall be construed to include feminine gender.

21 Nowhere in this provision have we any such

1 provision or clause, but we do have now for the first time
2 in this scheduled legislation a change of gender, and I
3 am wondering whether we should not include, since
4 evidently there is a difference, and may continue to be
5 a difference for some time under the code, whether we
6 should not include such a clause, which would state that
7 masculine shall be construed to be feminine or either
8 way it is taken. This is my question.

9 DELEGATE HARDWICKE: I suppose the answer is
10 yes.

11 THE CHAIRMAN: I think this question should be
12 given some further consideration.

13 DELEGATE HARDWICKE: I think what Delegate
14 Cardin is asking is that if we say that the neuter shall
15 always mean the masculine, suppose you use the feminine,
16 does that also mean the masculine? Should we have rules
17 of interpretation to that effect?

18 DELEGATE CARDIN: I would like it to be broader,
19 if possible. I would like it simply to state that whether
20 we use the masculine or the feminine, we mean either.

21 In other words, when we use "his", we do mean

1 "hers", and in this particular case, "unless she remarries",
2 should also be construed "unless he remarries", being
3 spouse.

4 THE CHAIRMAN: Delegate Hardwicke.

5 DELEGATE HARDWICKE: As I understand it,
6 Article 1 of the Maryland Code, which is an article
7 dealing with interpretations, this point is made and just
8 as you say, that is, the woman shall be believed to be the
9 masculine where that is appropriate and neuter shall be
10 determined to be masculine where appropriate. I think
11 that is a matter of statutory interpretation.

12 THE CHAIRMAN: That is correct.

13 Delegate Adkins.

14 DELEGATE ADKINS: Mr. Chairman, I have one
15 question in connection with these pensions. As I
16 understand it, the normal retirement ages for judges are
17 set at seventy. As I read Section 22, it provides that
18 he shall not be paid a pension unless he has reached his
19 sixtieth birthday, and my question is, if he elects to
20 resign, say, in midterm, at his sixtieth birthday, can he
21 then receive the same rate of pension in terms of the

1 number of years of service times the per annum provision
2 here, from sixty, as he would receive at seventy?

3 In other words, a man we will say served ten
4 years, resigns at sixty, in the case of the Court of
5 Appeals, would he be entitled to thirteen thousand
6 dollars a year? Would he receive the same? Would he be
7 entitled to receive thirteen thousand dollars a year,
8 beginning at age sixty, as he would if he continued until
9 seventy?

10 In other words, does the annual rate remain
11 the same? This is unlike any other pension plan I have
12 ever heard of.

13 DELEGATE HARDWICKE: Delegate Adkins, we
14 picked up in this Section 22 practically verbatim the
15 language of the Legislative Council Bill, which, in
16 turn, includes the language of existing law, and I think
17 the answer to your question is yes.

18 DELEGATE ADKINS: In other words, no difference
19 is made in terms of the per annum multiple times the
20 years of service, no matter whether he retires at age
21 sixty or age seventy?

1 DELEGATE HARDWICKE: That is correct. Once
2 he reaches this maximum amount, that is correct.

3 DELEGATE ADKINS: Suppose he doesn't reach the
4 maximum amount. Let's assume he serves five years, and
5 he elects to retire at fifty-five, let's say. He serves
6 from fifty to fifty-five. Beginning at age sixty, does
7 he get the same per annum rate that the man would who
8 served until he was seventy?

9 THE CHAIRMAN: I think it depends on the
10 conditions under which he terminated his service. If
11 he resigned, I am not sure.

12 DELEGATE ADKINS: This doesn't make that
13 qualification. There is no qualification here for
14 resignation. It says the only thing, active service as
15 terminated, and he has reached his sixtieth birthday. I
16 think this is the provision.

17 THE CHAIRMAN: I would like to pursue that same
18 question under this. If the man resigns before he is
19 sixty, is he entitled to his pension at the age sixty?

20 DELEGATE HARDWICKE: The answer to that is yes,
21 Delegate James. With regard to Delegate Adkins, yes, is

1 it your problem, Delegate Adkins, as to whether or not he
2 continues to receive allowance for the time after he
3 reaches sixty, but before he reaches seventy?

4 DELEGATE ADKINS: My question is whether or
5 not he can receive the full pension that he would be
6 entitled to by multiplying the years of service times the
7 annual rate for the additional ten-year period between
8 sixty and seventy, if he resigns prior to age sixty.

9 Normal pension plans are based on some multiple
10 times years payable over the expected life of the judge.
11 This seems to be a different situation. A man can
12 work for a certain number of years, can get ten full years
13 of added pension by retiring at sixty instead of
14 seventy. I am wondering if this is the intent of the
15 constitutional provision. It is stated here in the
16 negative, but I simply wondered if that was the intention
17 of the provision.

18 DELEGATE HARDWICKE: He gets so many dollars
19 multiplied by so many years of service, Delegate Adkins,
20 and then there is a maximum of twenty-three thousand
21 three hundred thirty-three dollars placed on that,

1 beginning when he first has service and continuing through
2 that period of service and if he continues to serve after
3 he reaches the age sixty, those years will count in
4 computing the amount of pension which he will get when he
5 does retire.

6 THE CHAIRMAN: Any other questions?

7 Delegate Bennett.

8 DELEGATE BENNETT: Mr. Chairman, how did you
9 arrive at these figures of what the rate would be for
10 each year of service?

11 DELEGATE HARDWICKE: Delegate Bennett, it
12 is in the present Legislative Council Bill and it is
13 pretty consistent with the existing law.

14 DELEGATE BENNETT: Of course, this pension
15 scheme to my mind is no giveaway and in view of the
16 conversation with Mrs. Gill and Delegate Koger and, further,
17 in view of the fact it is the largest section of the
18 legislative procedures, wouldn't it be a good idea to
19 consider revising this and leaving a greater measure of
20 it to the legislature?

21 DELEGATE HARDWICKE: That is almost what we

1 have done because this is our schedule of legislation.
2 We are not equipped to have hearings, et cetera, with
3 regard to what the provision should be, so we have put in
4 the figures of the Legislative Council Bill with the
5 understanding the legislature January 1st, 1968, could
6 put in whatever it wants, provided they don't run afoul
7 of constitutional provisions with regard to lowering the
8 amount of pension.

9 THE CHAIRMAN: Delegate Bennett.

10 DELEGATE BENNETT: I would certainly hope that
11 you would do so because there are many things here that
12 I notice, being a pensioner myself, that need some further
13 study.

14 For example, your lowest grade court, when you
15 deduct the federal and state tax, you won't have much
16 incentive to retire at a rather early age when he might
17 otherwise do so, so I certainly hope that the legislature
18 will take this in mind.

19 THE CHAIRMAN: Any further questions?

20 Delegate Rybczynski?

21 DELEGATE RYBCZYNSKI: Delegate Hardwicke, I

1 have been in and out on business, and I got part of
2 Delegate Gill's conversation with you and part of Delegate
3 Sherbow's. I want to be sure of the word "spouse" in
4 Section 23.

5 Now, is there any doubt in your mind whether
6 the word "spouse" means either husband or wife?

7 DELEGATE HARDWICKE: That is our intention.

8 DELEGATE RYBCZYNSKI: If a lady judge at the
9 age of thirty-seven who has a husband who is forty should
10 happen to die, does this mean that her husband at the
11 age of forty, fully employable, probably making forty or
12 fifty thousand dollars a year, would immediately start to
13 collect the pension? Let's look at this thing and see if
14 there is anything here that would prevent that.

15 DELEGATE HARDWICKE: The answer to your
16 question is yes.

17 DELEGATE RYBCZYNSKI: What would prevent it?

18 DELEGATE HARDWICKE: There is nothing to prevent
19 it.

20 DELEGATE RYBCZYNSKI: Then we need an amendment.

21 THE CHAIRMAN: Delegate Henderson.

1 DELEGATE HENDERSON: I hesitate to rise on
2 this point. I am not speaking now about the spouse,
3 but I am speaking about the pension of retired judges.
4 Being a retired judge myself, I may be speaking with, or
5 have a special interest which I am free to disclose at
6 this time, but at the same time, I think I know the
7 history of this, and I would like to try to explain why
8 I think it is proper to set these things out in the
9 Constitution.

10 At the present time, the salaries of the
11 judges at the superior court level in Baltimore City and
12 in two other counties, I believe, are fixed and paid by
13 supplementation at the thirty thousand dollar figure.
14 It would not be possible, I take it, during the term of
15 office of any of those judges to reduce that salary, so
16 that you have that figure really pegged in the Constitution.

17 You have the twenty-two thousand pretty well
18 pegged in the Constitution for the district court when
19 that comes along because the judges, I believe, in
20 Montgomery County, are paid twenty-one thousand five
21 hundred, so those figures are pretty well fixed.

1 As far as the Intermediate Court of Appeals
2 is concerned, and the Court of Appeals itself, there
3 should be some reasonable difference, differentiation,
4 between the work.

5 When I was on the Supreme Bench I got the
6 great salary of ten thousand dollars a year and when I
7 went to the Court of Appeals the salary there was eleven
8 thousand, but for probably the last five years of my
9 service on the Court of Appeals, I was getting twenty-
10 five thousand dollars, while the trial judges whose work
11 I was passing on were getting twenty-seven and thirty, so
12 that a twenty-five hundred differentiation between the
13 judges of the Intermediate Court, and, again, of the
14 Court of Appeals, would seem to be a reasonable one in
15 view of the hierarchy and the responsibilities that those
16 judges carry.

17 In addition to that being the figure which
18 has already been approved, both by the Bar Association
19 and the Legislative Council, it seems to me that they
20 can be justified and defended on that basis, just as a
21 matter of pure common sense.

1 I just offer that as a suggestion. To leave
2 it out of the Constitution and leave it to the legislature
3 would make it possible and this is the thing we have
4 discussed in the Judicial Branch.

5 It would make it possible for the local people
6 to go and get their judges raised by supplementation and,
7 therefore, raise the ante so that when the change went
8 into effect, you would have a higher level set, so by
9 putting this thirty thousand figure in the Constitution
10 for the superior court judges, you prevent this local
11 supplementation from getting out of hand and fix it at a
12 figure which I suggest is the minimum which could be
13 fixed under the present situation.

14 THE CHAIRMAN: Judge Henderson, is this
15 schedule also fixed by the Governor's Commission to study
16 judicial salaries? I believe that is the case.

17 DELEGATE HENDERSON: I believe that is the case.

18 THE CHAIRMAN: I believe Delegate Case was Vice
19 Chairman of that Commission.

20 Delegate Weidemeyer.

21 DELEGATE WEIDEMEYER: I would like to ask

1 Delegate Hardwicke a question pertaining to Sub-Section
2 D of Section 23, which provides that a spouse who is
3 entitled to a pension under the provisions of this
4 section shall be paid for the period of her life, unless
5 she remarries, in which event the pension is to cease.

6 I wonder what the intent is behind that
7 section. Is it intended to be compensatory or is it
8 to provide a premium for remaining a widow?

9 THE CHAIRMAN: You don't have to answer that.
10 We get this complaint frequently in the legislature.
11 The women say they shouldn't be penalized for remarrying.
12 It is an old question.

13 DELEGATE HARDWICKE: The whole problem here,
14 Delegate Weidemeyer, and those others of you, as Delegate
15 Rybczynski, who have problems with this, is we are not
16 equipped to give to the legislature a profound manner and
17 we have tried in setting up this legislation in this
18 Constituion to take existing law, the existing Constitution,
19 or existing legislative proposals. We have tried to do
20 a minimum of violence to them. We recognize this can be
21 changed very promptly by the legislature. This is better

1 than nothing. That is about as far as we can go with it
2 because if we don't put something in here there will be
3 nothing.

4 Delegate Weidemeyer, these points that you
5 raise could be debated endlessly in the legislature.

6 DELEGATE WEIDEMEYER: I think you have
7 adequately answered.

8 THE CHAIRMAN: Delegate Taylor.

9 DELEGATE LLOYD TAYLOR: Delegate Hardwicke,
10 is there any way that you could make this pension
11 contributory in this particular section, Section 22?

12 DELEGATE HARDWICKE: Delegate Taylor, I don't
13 believe that we are adequately equipped by reason of the
14 testimony and available evidence in front of us to do
15 it, and I don't think we should try to do it, if we have
16 to hope that the legislature will focus on the problem
17 that you see and changing the figures so that would be
18 desirable. I don't think this Constitutional Convention
19 can give that much attention to these details.

20 THE CHAIRMAN: The Chair will state that the
21 problem is that the judges don't serve long enough to

1 really develop a sound actuarial contributory plan.
2 That is the problem that the legislature runs into when
3 this problem is considered. The average judge serves
4 ten years. To have a contributory system, it would
5 make it almost prohibitive. That is the problem.

6 DELEGATE LLOYD TAYLOR: We have about thirty
7 thousand state employees. Most of them, I believe all
8 of them, contribute to their pension plan. Some of them
9 may give service of ten or fifteen years. They still
10 have to contribute. Of course, their salary may not
11 be more than five or six thousand dollars a year. Yet,
12 they have to contribute and a judge is receiving no less
13 than twenty-two thousand dollars a year. In the space of
14 eight or nine years he could contribute part of his
15 salary, I think.

1 THE CHAIRMAN: Delegate Hardwicke.

2 DELEGATE HARDWICKE: I understand that. We
3 understand the point you are making, but I just have to
4 repeat, Delegate Taylor, I don't see how we are equipped to
5 do anything about it in this schedule of legislation.

6 THE CHAIRMAN: Delegate Taylor.

7 DELEGATE LLOYD TAYLOR: I feel that the State
8 should be democratic and treat all State employees equally,
9 and of course, this is discrimination against other State
10 employees. You pay one State employee a high salary, and
11 not require him to contribute to his pension. This is
12 really what you would call an outright grant.

13 THE CHAIRMAN: Delegate Taylor, do you have a
14 question?

15 DELEGATE LLOYD TAYLOR: My question is, are we
16 going to be uniform in this Constitution? We should knock
17 this section out if we are, or even make it contributory
18 pension, at least make it a contributory pension for the
19 ten years.

20 THE CHAIRMAN: Delegate Child.

21 DELEGATE CHILD: Delegate Hardwicke, I have a

1 question on Section 24,

2 As I understand the section as it is now
3 written here, a retired judge is receiving a pension, we
4 will say, which is less than the maximum. That pension,
5 although the rate per year is increased under former
6 sections, remains the same in his case, unless and until
7 the Legislature acts otherwise. Do I understand the
8 section correctly?

9 THE CHAIRMAN: Delegate Hardwicke.

10 DELEGATE HARDWICKE: You do, Judge Child, yes.

11 THE CHAIRMAN: Are there any further questions?

12 Are there any further questions on Section 25?

13 If there are no further questions, we will go to
14 Section 26. Are there any questions on Section 26?

15 Section 27, Municipal Court, Baltimore City.

16 Section 28.

17 Section 29, vacancies in the Orphans' Court.

18 Are there any further questions about any
19 section?

20 Delegate Hardwicke.

21 DELEGATE HARDWICKE: Section 30.

1 THE CHAIRMAN: We will have the judicial article
2 before we pass on to the local government. If there are
3 no further questions on the judicial article, we will go
4 to local government, Section 30. Are there any questions
5 about Section 30, procedure to adopt a county instrument of
6 government?

7 Delegate Grant.

8 DELEGATE GRANT: On page 28, line 1, you indicate
9 that the Board of Commissioners may appoint a charter board
10 at any time. Would you indicate a charter board to be a
11 board of one person and it could also mean the county
12 commissioners?

13 THE CHAIRMAN: Delegate Hardwicke.

14 DELEGATE HARDWICKE: The answer to both questions
15 is yes. It could be one person, it could be the president
16 of the board of county commissioners.

17 THE CHAIRMAN: Any other questions about Section
18 30?

19 If there are no questions on Section 30, we will
20 proceed to Section 31, the amendment of instrument of govern-
21 ment. Are there any questions about the amendment to

1 instrument of government?

2 If there are no questions, we will proceed to
3 Section 32, County Commissioners.

4 The Chair hearing no questions, the next section
5 is Section 33, County Surveyors.

6 Delegate Bennett.

7 DELEGATE BENNETT: Mr. Chairman, if it is not
8 too late to revert to Section 30 for the purpose of advising
9 me whether the county charter as drafted can be seriously
10 contradictory of the model charter adopted by the Legislature.

11 THE CHAIRMAN: Delegate Hardwicke.

12 DELEGATE HARDWICKE: Yes, it can, Delegate Bennett.

13 THE CHAIRMAN: Delegate Bennett.

14 DELEGATE BENNETT: Then it is quite possible that
15 we will have some pretty wide variations in these charters,
16 is it not, dealing with such things as property qualification,
17 for instance, for voting?

18 THE CHAIRMAN: Delegate Hardwicke.

19 DELEGATE HARDWICKE: No, Delegate Bennett. That
20 is regulated by this Constitution.

21 THE CHAIRMAN: Delegate Bennett.

1 DELEGATE BENNETT: All right --

2 DELEGATE HARDWICKE: Let me change that answer
3 slightly: To the extent that this Constitution permits
4 a person who is not a resident but owns property in a given
5 municipality, for example, to vote, that kind of thing can
6 be governed by the charter of the municipality, but a
7 charter can contain any provision that the people of a given
8 county want it to contain providing it does not conflict
9 with this Constitution.

10 THE CHAIRMAN: Or conflict with general law.

11 Delegate Hardwicke.

12 DELEGATE HARDWICKE: Or public general law, yes,
13 sir.

14 THE CHAIRMAN: Delegate Bennett.

15 DELEGATE BENNETT: What I was hoping was that
16 this model charter would set certain minimum standards.

17 THE CHAIRMAN: Delegate Hardwicke.

18 DELEGATE HARDWICKE: That isn't the purpose of it.
19 The purpose of the model charter is to set forth a charter
20 which the counties will know in advance will be their
21 charter, if they fail to adopt one.

1 In other words, the model charter is not to
2 serve as a guide. The model charter is to serve as an
3 instrument of government in those counties which for one
4 reason or another do not adopt one for themselves.

5 Let's point out to you that the word "model" is
6 not used. That is the word which some of us have coined.
7 It may be an unfortunate word. It is a charter which would
8 be effective in the absence of another charter being adopted.

9 THE CHAIRMAN: If there are no further questions
10 on the sections relating to local government, we will
11 proceed to general provisions, Section 34. Are there any
12 questions concerning Section 34?

13 The Chair hearing none, Section 35.

14 The Chair hearing no questions, the Chair feels
15 that we should ask whether there are any questions concerning
16 any of this.

17 Does Delegate Marion wish to ask a question on
18 Section 35?

19 DELEGATE MARION: A general question.

20 THE CHAIRMAN: The matter is now open for ques-
21 tions concerning any section.

1 Delegate Marion.

2 DELEGATE MARION: Delegate Hardwicke, my
3 question, I think, is a stylistic one. Preceding or at
4 the beginning of the schedule of transitional provisions
5 there is a section on definition which defines prior
6 Constitution as the Constitution of 1867. That refers, I
7 take it, or that definition section only applies to the
8 schedule of transitional provisions. There is no similar
9 definition section in the schedule of legislation, and yet
10 the words "prior Constitution" are used throughout many
11 sections of that schedule of legislation.

12 I would assume that is what is meant and that in
13 some manner that would have to be clarified to make it
14 clear what is meant by prior Constitution in those legislat-
15 ive sections.

16 THE CHAIRMAN: Delegate Hardwicke.

17 DELEGATE HARDWICKE: I think that is a good point,
18 Delegate Marion, but I think the answer to the problem is
19 that any term as defined in the Constitution whether in the
20 transitional provisions or in the body of the Constitution
21 proper would be a perfectly proper term to use in the

1 legislation and that the definition contained in the
2 Constitution would carry over into the legislation that is
3 annexed to the Constitution pursuant to the Constitution.

4 THE CHAIRMAN: Delegate Marion.

5 DELEGATE MARION: My thought was that each of these
6 legislative sections will in time have to stand on its own
7 to be a part of the statute law and they will not as I
8 understood from President Eney's comments earlier this
9 morning be included with the Constitution, but will be
10 incorporated in the Code, in the statute law of the State.

11 THE CHAIRMAN: The schedule of legislation will
12 be incorporated in the Code.

13 Delegate Marion.

14 DELEGATE MARION: Is what I am referring to
15 the schedule of legislation?

16 THE CHAIRMAN: Delegate Hardwicke.

17 DELEGATE HARDWICKE: I think that in the schedule
18 of legislation you use a lot of words and concepts which
19 are concepts of this 1968 Constitution, and I think that
20 you must look to the 1968 Constitution to get the meaning
21 of the words used in the schedule of legislation, and it

1 doesn't bother me particularly that this particular
2 definition is not repeated in the Legislature because I
3 think that it carries over into the legislation by virtue
4 of the fact the legislation is enacted to the whole
5 Constitution we are enacting and the words used in that
6 legislation can be defined by looking at the Constitution
7 proper.

8 THE CHAIRMAN: Delegate Marion.

9 DELEGATE MARION: I have not wanted to engage
10 in a long discussion. I think we are clear as to what it
11 means, but Section 1 of the scheduled transitional provisions
12 only defines those words, for the purposes of this schedule,
13 which is schedule of transitional provisions.

14 THE CHAIRMAN: Delegate Hardwicke.

15 DELEGATE HARDWICKE: I see your problem, but I
16 am not worried about it.

17 THE CHAIRMAN: Delegate Grant.

18 DELEGATE GRANT: As I understand, this scheduled
19 legislation will become effective on the adoption of the
20 Constitution, on July 1st. Assuming the upcoming session
21 of the General Assembly should pass a law effective July

1 second, would that law supercede the law which we passed
2 which would be effective July first?

3 THE CHAIRMAN: Delegate Hardwicke.

4 DELEGATE HARDWICKE: No, because of the simple
5 fact that, and it is a good question, but let me make a
6 point in this connection. The legislative leaders have
7 already agreed that all of the legislation as put through
8 the 1968 session will have the effective date of June 30,
9 1968, and not July 1, 1968, which is the date, the latter
10 date being the date they ordinarily would use, but in view
11 of the fact we have picked up existing laws as of June 30,
12 1968, all of the new legislation coming to the coming
13 session of the General Assembly will bar an effective date
14 of June 30, 1968. If they try to make something effect on
15 past or coming into effect with this Constitution, it
16 seems to me that since the people in the State of Maryland
17 on May 14 are going to adopt this as their Constitution,
18 this legislation as their legislation, it seems to me that
19 that would carry greater weight than contrary legislation
20 enacted in the coming session of the General Assembly.

21 THE CHAIRMAN: It is highly questionable whether

1 you could enact legislation under the present Constitution
2 that would take effect under the new Constitution.

3 Delegate Grant.

4 DELEGATE GRANT: I presume the thought had
5 occurred to the leaders of the Legislature and I wondered
6 if there had been some thought given to positively changing
7 some of these provisions which they may feel need to be
8 changed, even as to the dates they will go into effect.

9 THE CHAIRMAN: Delegate Hardwicke.

10 DELEGATE HARDWICKE: I think in the prior
11 Constitution, as we have been talking about it, I do think
12 the Legislature can have an effective date after July first
13 coming, but they could have an effective date before, too.

14 THE CHAIRMAN: Assuming this Constitution is
15 ratified.

16 Any further questions?

17 If not, we will terminate the question period
18 and send a St. Bernard dog for the President to find out
19 what we do next.

20 We could go into the amendment period. Perhaps
21 President Eney will be here before we do that. It is very

1 unusual when we run out of questions.

2 (Whereupon, Chairman Eney resumed the Chair.)

3 THE CHAIRMAN: The Clerk will ring the quorum
4 bell, please.

5 May I have your attention? The pages have
6 begun distributing and placing on your desks memorandum
7 containing the first portions of the Constitution as thus
8 far drafted, showing the changes made on second reading.
9 This is following the same pattern as we did before, that
10 the matter stricken out is repeated, but lined through,
11 and new matter is shown in italics.

12 Keep in mind that this device shows pages
13 only on second reading so that the matter that was stricken
14 out is in italics. The attachment to the report of the
15 Committee on Style, Drafting and Arrangement, would of
16 course be quite different from this. This is the draft
17 which shows you what you have acted on up to now, what you
18 have adopted.

19 In order to get it to you as quickly as possible,
20 we are not printing it on two sides, except a few sheets.
21 Are are not necessarily going to get it to you consecutively.

1 The pagination, therefore, will follow the article numbers.
2 In other words, at the bottom of the page, the first page
3 dealing with personal rights and preamble, the page at the
4 bottom is "11" and then 12, 13, etc. That means it is
5 page 1 of article 1.

6 The next, Suffrage and Elections, begins page
7 21, 23, etc. The next installment which will be coming
8 to your shortly, I think, is article 7. It will be
9 numbered pages 71, 72, etc., so that even though you get
10 them out of order each article will be complete and by
11 this method of pagination you will be able to assemble
12 the whole thing.

13 The draft is complete. If we can get through
14 the printing in time I think you will have a complete
15 draft before you leave this evening.

16 We are now ready to receive amendments with
17 respect to Committee Recommendation GP-13.

18 Are there any amendments with respect to the
19 introductory paragraph on page 1, beginning on line 9?

20 The Chair hears no amendments and has none.

21 Are there any amendments to Section 1?

1 The Chair hears none.

2 Are there any amendments to Section 2?

3 The Chair hears none.

4 Are there any amendments to Section 3?

5 The Chair has three amendments, each of which is
6 to strike out three sub-paragraphs.

7 The first pertains to sub-paragraph A.

8 Delegate Johnson, do you desire to offer your
9 amendment I?

10 DELEGATE JOHNSON: Yes, Mr. Chairman.

11 THE CHAIRMAN: The pages will please distribute
12 the amendment marked "I". This will be Amendment No. 1.

13 The Clerk will read the amendment.

14 MR. QUILLEN: Amendment No. 1 to Committee
15 Recommendation No. GP-13 by Delegates Johnson and Rybczynski:

16 On page 2 Section 3. Delayed Effect of Certain
17 Sections strike out all of subsection (a), comprising all of
18 lines 32 through 35, inclusive.

19 THE CHAIRMAN: The amendment has been submitted
20 by Delegate Johnson, seconded by Delegate Rybczynski.

21 The Chair recognizes Delegate Johnson. I call

1 to your attention now that Section 1.16 as acted upon on
2 second reading is before you on page 14 of the draft
3 Constitution.

4 Delegate Johnson.

5 DELEGATE JOHNSON: Mr. Chairman and Fellow
6 Delegates, this particular provision of Section 1.16 is
7 appropriately under a section generally referred to as
8 personal rights.

9 We submit that this is a right of the citizens
10 of this State.

11 As you are well aware, the Constitution, unless
12 otherwise provided, that becomes effective on July 1, 1968,
13 in our opinion, despite the fact that some reasons have
14 been given to delay this right, the so-called reasons are
15 not persuasive, since we are concerned and are considering
16 the rights of all the citizens of this State with respect
17 to eminent domain and the damages that may derive therefrom.

18 If we postpone the watered-down right with respect
19 to damages that we have provided in this Constitution,
20 despite the fact that it may give the Legislature some time
21 to determine what damages are, I object to this particular

1 provision anyway, but despite the fact that this is being
2 made to allegedly give the Legislature some time, what
3 happens to our fellow citizens whose property is damaged
4 in the meantime?

5 In other words, if this Constitution that we
6 are writing for all the citizens of Maryland is going to
7 take effect on July 1, 1968, why should some unfortunate
8 citizens be deprived of this right for a period of one
9 year just because we inserted it in these transitory pro-
10 visions.

11 There is a strong probability that a citizen's
12 property will be damaged in that year between July first,
13 1968, and July first, 1969. It is very easy for us to
14 say, well, that is tough, as long as it isn't our property
15 that is damaged.

16 You will note that under the transitory
17 provision, this Section 3 is titled, delayed effect of
18 certain sections.

19 I submit that it is totally improper to delay
20 rights under this personal rights section, and I would
21 hope that this Committee of the Whole will strike this

1 provision and to have this right effective with the
2 adoption of the Constitution.

3 THE CHAIRMAN: Delegate Lord.

4 DELEGATE LORD: Mr. President, I wonder if
5 Delegate Johnson would yield to a question.

6 THE CHAIRMAN: Delegate Johnson, do you yield
7 to a question?

8 DELEGATE JOHNSON: Yes, Mr. President.

9 THE CHAIRMAN: Delegate Lord.

10 DELEGATE LORD: Delegate Johnson, if your
11 amendment were adopted, is it not true that the effective
12 date of this section would become July 1, 1968, if the
13 Constitution is adopted, and if that is true, how is it going
14 to be possible for the Legislature to limit and further
15 describe this right under the specific language that we
16 have adopted?

17 Apparently it is our intention that they should
18 take further action and yet perhaps they won't be able to
19 until this is effective.

20 THE CHAIRMAN: Delegate Johnson.

21 DELEGATE JOHNSON: As you are aware, the Legislature

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1 may or may not further describe this particular right of
2 damages. I submit that if they wanted to do so, they could
3 do so prior to the adoption date of the Constitution and
4 make it affective at the time the Constitution takes effect
5 on July first, 1968. I submit that they may not particularly
6 describe or define the question of damages. They may leave
7 the matter entirely up to the court. I don't understand
8 this Constitution making a constitutional enforcable mandate
9 that the Legislature must define this right. They very
10 well may not. I hope they don't frankly for your sake and
11 mine, and all the citizens of the State.

12 I believe damages is a proper judicial matter
13 and that the Legislature should not involve itself with
14 what legal damages are or are not, so I submit that
15 your particular concern really should be no concern because
16 if they want to do it, they can do it, and they may or may
17 not do it anyway.

18 THE CHAIRMAN: Delegate Singer.

19 DELEGATE SINGER: I wish to speak against the
20 amendment.

21 THE CHAIRMAN: You may proceed.

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1 DELEGATE SINGER: We have here under considera-
2 tion a provision which caused much thoughtful doubt on the
3 part of many delegates. It was amended at the second reading,
4 with the specific purpose to allow and provide for the
5 General Assembly to lay down procedures and provide for any
6 limitations that it felt was necessary or proper under the
7 new eminent domain provisions that we adopted.

8 If this Constitution is adopted, the General
9 Assembly will have an enormous amount of work to do.

10 It seems to me that we are pushing beyond
11 reason and compressing the time in which we allow the
12 General Assembly to operate in a field which is very, very
13 important not only to the State government, but to individual
14 citizens throughout the State.

15 I think that the approach that has been taken
16 in the schedule is a reasonable one. We have allowed the
17 General Assembly a reasonable amount of time to study the
18 situation, look over the problems, and come up with those
19 limitations and restrictions that it feels are reasonable
20 and necessary.

21 I think the job that has been done thus far by

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1 this Convention is a highly commendable one and I do not
2 see the need, and I fear the evil of impairing the quality
3 of the work we have done by pushing the General Assembly
4 to provide things which it may not have the time to study
5 properly, and for these reasons I would ask you to defeat
6 the amendment.

7 THE CHAIRMAN: Delegate Rybczynski.

8 DELEGATE RYBCZYNSKI: Mr. Chairman, I too would
9 like to emphasize that if in fact the Attorney General's
10 office, or the utilities are concerned about the possible
11 effect of this matter, that they can very well lay the
12 problem before the General Assembly of this year. The
13 problem is fresh in everybody's mind. They can do this if
14 they want to as delaying legislation.

15 I started to do this yesterday on personal
16 privilege and decided that I would rather not take the time
17 then because it would have been in the abstract. However,
18 I do it now.

19 I recall for you that there was an article in
20 yesterday morning's newspaper about a public service
21 commission hearing, at which time it was decided to put

1 future telephone and gas and electric lines under ground,
2 and then the Public Service Commission chairman made a
3 very significant statement. He said that the intention
4 now is to put all lines, all lines, under ground.

5 I would like to think tht perhaps the action of
6 this Convention has had something to do with that broad
7 general statement of Solomon Liss, who is Chairman of that
8 Commission.

9 I strongly urge you to knock out this subsection
10 A and worry not about the position of the utilities and the
11 State, which can very well take care of itself, and worry
12 more about the people who are affected on a day-to-day
13 basis by damages.

14 THE CHAIRMAN: Any other delegate desire to speak?
15 Delegate Marvin Smith.

16 DELEGATE MARVIN SMITH: Mr. Chairman, may I
17 suggest to you, sir, that again as I have said when this
18 matter was before the Committee of the Whole and before the
19 Convention previously, that there is a responsible way in
20 which to act and certainly we are not acting in a responsible
21 manner when we put into effect immediately, without opportunity

1 for the General Assembly to study, without opportunity for
2 the General Assembly to think, a matter which can be costing
3 the State of Maryland the number of dollars that is here
4 proposed.

5 THE CHAIRMAN: Any further discussion?

6 Delegate Johnson.

7 DELEGATE JOHNSON: I submit that it is entirely
8 inconsistent to think that it is necessary, vitally necessary,
9 I submit, to provide for reapportionment on a guesstimate
10 figure, on a figure of the 1970 census that is not even
11 available, to raise the salary of judges immediately, to
12 immediately raise the salary of the Legislature, and to
13 immediately raise the salary of the Governor, but delay
14 the rights of the citizens of this State.

15 If you don't believe that that is inconsistent,
16 then vote down the amendment. I submit to you that it would
17 be consistent with good constitutional writing and for the
18 protection of the citizens of this State to adopt this
19 amendment, and I urge you to do so.

20 THE CHAIRMAN: Delegate Mitchell.

21 DELEGATE MITCHELL: Mr. President, I rise to

1 support the amendment. I think a cardinal principle of
2 constitutional law is that your constitutional rights
3 of personal privilege are immediate and why there has been
4 some erosion of that principle, I am opposed to any further
5 erosion of it.

6 I don't think anyone's constitutional right
7 should be postponed. I would say that I am for the raise
8 in the judges' salaries. I think that is a principle of
9 good government.

10 Certainly public servants are worthy of their
11 hire and I think that Maryland law has been penniless and
12 pound foolish in the way they reward their public servants.

13 I think that the Committee on Transitional
14 Legislation has done a fine job in that respect, but I am
15 opposed to the postponement of the rights of the people
16 whose properties have been damaged irreparably by the
17 public condemnation procedures, to further postpone their
18 right to compensation for the damages the State has caused,
19 and therefore, I support this amendment.

20 THE CHAIRMAN: Delegate Kiefer.

21 DELEGATE KIEFER: Mr. President, I am sorry I

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1 was out on other business of the Committee when this first
2 came up.

3 I would just say to the delegates here that as
4 the Committee originally proposed this particular item,
5 there was no qualification on the word "damages". It was
6 to be left to court construction, whatever implementation
7 might be necessary by the Legislature.

8 However, Amendment 4 to S&D-9 specifically
9 provided that there should be added to this business the
10 language, except that the allowance for compensation for
11 property damage, but not taken for public use purposes
12 shall be subject to reasonable limitations and restrictions
13 that the General Assembly may prescribe by law.

14 That was adopted and that is what you have,
15 The Committee of the Whole, adopted. I believe that if
16 we are going to act in good faith we have got to give the
17 Legislature an opportunity to do so, and when we discuss
18 this thing, and I had complete knowledge of this and acqui-
19 esced in it, we had to pick a date. This is the earliest
20 practical date that gives the Legislature an opportunity
21 to do exactly what this Committee of the Whole wants it do

1 do.

2
3 Don't think we therefore are acting in really
4 good faith if we eliminate it. We ought at least give the
5 Legislature a chance to say how they want to limit this if
6 in fact they do. I would therefore have to say to be
7 consistent we should vote against this amendment. This is
8 not the position the Committee originally took. This does
9 carry out what apparently is the intention of the Committee
10 of the Whole.

11 THE CHAIRMAN: Delegate Cicone.

12 DELEGATE CICONE: I was gong to speak in opposi-
13 tion.

14 THE CHAIRMAN: Any other delegate desire to
15 speak in favor?

16 Delegate Burgess.

17 DELEGATE BURGESS: Ladies and Gentlemen of the
18 Convention, as one of the sponsors of the original concept
19 here, I have the feeling sometimes that the additional
20 language brings the situation here, now more or less the
21 tail is wagging the dog. If this is a right, and I feel
strongly that it is, and I think that the majority of us do

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1 feel that way, it does seem to me that the delay here works
2 a hardship on a few people who will be probably very
3 seriously hurt by this thing.

4 I would respectfully suggest that if this can't
5 be implemented in a faster and more efficient manner, that
6 possibly it should be done. If the Legislature should act
7 in its up and coming session in some manner I think this
8 would be a step in the right direction and I would concur
9 in what Delegate Johnson said in this area and respectfully
10 request that you consider this amendment favorably.

11 THE CHAIRMAN: Delegate Cicone.

12 DELEGATE CICONE: I, too, am not in favor of
13 not putting in the Constitution delayed rights, but all I
14 have heard here is delayed rights for a small group of people.
15 I think we are here to think of all of the people.

16 Now, it will be a delayed right for all of the
17 people not to know what this is going to cost them and not
18 just a small group, and I think that all of the people
19 should have the benefit of our General Assembly to first
20 lay down the guidelines for these damages, and to look into
21 the matter, and in that manner also they will have the right

1 to contact their Legislature while this is being looked
2 into.

3 I think their rights are just as important as
4 the small few who temporarily may suffer some damages,
5 but I think the right of all the people to know what it
6 is going to cost them before they have any guidelines laid
7 down is predominant.

8 THE CHAIRMAN: Delegate Winslow.

9 DELEGATE WINSLOW: Mr. Chairman, I move the
10 previous question.

11 THE CHAIRMAN: Is there a second?

12 DELEGATE JAMES: Second.

13 THE CHAIRMAN: The question arises on the
14 motion --

15 DELEGATE CASE: A point of order.

16 THE CHAIRMAN: The Chair was losing sight of
17 the fact we are in the Committee of the Whole. The motion
18 is not in order.

19 Delegate Weidemeyer.

20 DELEGATE WEIDEMEYER: Mr. President and Members,
21 I want to speak in opposition to this amendment because

1 I feel for two reasons that the wording of the transitory
2 provision is perfectly proper. It only delays the mate
3 for one year, and yet if we look at the provisions of the
4 damage clause, it is, except in the manner provided by law,
5 and certainly the Legislature ought to have at least one
6 year's opportunity to provide for those exceptions and to
7 say where it may be needed and where it may not. The concept
8 is good. I am in favor of it..

9 Another thing is this: I have not shared the
10 horrors and fears that we are going to bankrupt the State
11 by this new concept of damages, but nevertheless we must
12 realize that there are some areas of damages and some
13 compensation that must be paid. The State must set up its
14 reserves for that. Any corporation or insurance company
15 operating prudently always has to set up reserves for
16 losses, and this will only give them one year to set up
17 those reserves for these probable losses and I think it is
18 only fair that we give the private corporations condemning
19 or the State as the case may be that one year's opportunity
20 to set up their budgets and I think it is only sound
21 fiscal arrangement for us to do it, and I think the amendment

1 should be defeated for those two reasons.

2 THE CHAIRMAN: Delegate Koger.

3 DELEGATE KOGER: Mr. Chairman, Ladies and
4 Gentlemen: I am very much opposed to this amendment.
5 I sincerely believe that if we permit this particular, I
6 mean to permit people to sue the state for damages, it will
7 cause quite a lot, or create a considerable amount of
8 confusion and when you sue for damages it is difficult to
9 determine what amount you are going to sue for.

10 Now, we find the same situation when we consider
11 damages as a result, not property damage, but damage result-
12 ing from a suit. You can determine the amount of property
13 damage. When you think in terms of a named damage, you can
14 measure but you cannot measure the amount of suit when it
15 applies to damages.

16 I would be very much in favor of this particular
17 section, but I am not very much in favor of this section
18 of allowing the section to stand, not to in some way postpone
19 it. The State has to get itself together and it has to set
20 up reserves and it has to make, to have some way of measur-
21 ing the amount of what it is going to pay.

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1 THE CHAIRMAN: Are you ready for the question?
2 The Clerk will ring the quorum bell.
3 The question arises on the adoption of Amendment
4 No. 1.

5 A vote aye is a vote in favor of the amendment;
6 a vote No is a vote against.

7 Cast your vote.

8 The Clerk will record the vote.

9 There being twenty-six votes in the affirmative
10 and eighty-three in the negative, the motion is lost. The
11 amendment is rejected.

12 Delegate Chabot, do you desire to offer your
13 amendment M?

14 DELEGATE CHABOR: Yes, sir.

15 THE CHAIRMAN: The pages will please distribute
16 Amendment M. This will be Amendment No. 2.

17 The Clerk will read the amendment.

18 MR. QUILLEN: Amendment No. 2 to Committee
19 Recommendation No. GP-13 by Delegate Chabot:

20 On page 2 Section 3. Delayed Effect of Certain
21 Sections strike out all of subsection (b), comprising all

1 of lines 37 through 44, inclusive.

2 THE CHAIRMAN: The amendment is submitted by
3 Delegate Chabot.

4 Is there a second?

5 DELEGATE MILLER: Second.

6 THE CHAIRMAN: Delegate Betty Miller seconds.
7 The Chair recognizes Delegate Chabot.

8 DELEGATE CHABOT: About thirty years ago, Mr.
9 Justice Cardozo indicated that protection against double
10 jeopardy is not one of those rights that forms the basis
11 of a society.

12 However, within these past few months we have
13 decided that this protection is one of the rights that
14 forms the basis of our orderly society of Maryland.

15 This right against double jeopardy does not,
16 apart from this one subsection that I propose to strike,
17 depend upon the learning of the judge that sits before you,
18 the ability of the judge, the level of court, or any of these
19 other matters. The concept is whether or not you are going
20 to be put twice in jeopardy in criminal punishment.

21 I suggest that recognizing the reason for the

1 concept, recognizing the reasons that have compelled us
2 to put this provision into this Constitution, there is
3 no justification for delaying the enforcement of this right.

4 This paragraph is part of the section that has
5 three paragraphs dealing with three matters that we have
6 decided upon. Subsections A and C are delayed, and I
7 believe are for good reason, to give the General Assembly
8 some time to determine what the impact of these provisions
9 will be, and to prepare for that impact.

10 This reason for delay does not apply at all to
11 subsection B. I am quite sure it is not contemplated that
12 the General Assembly will do anything. It is not expected
13 to do anything. We are not trying to make it do anything
14 to prepare for the impact of this change. Consequently,
15 the reasons applicable to the delay in the other rights
16 doesn't apply here.

17 Now, the State doesn't have a vested right, either
18 a property right or any other kind of right in being able
19 to subject people to double jeopardy. Consequently, we
20 are not preserving any right of the State by delaying the
21 effectiveness of this provision.

1 Finally, I just want to read one sentence from
2 the report of the Committee on Personal Rights when it
3 recommended that we adopt this provision as part of our
4 Bill of Rights. The last sentence said: This recommendation
5 is intended to terminate the State's right of appeal from
6 magistrate courts.

7 I urge the Convention to do what the Personal
8 Rights Committee told us it wanted to do, and to terminate
9 it and terminate it right away.

10 THE CHAIRMAN: Delegate Kiefer.

11 DELEGATE KIEFER: Mr. Chairman, I find myself
12 agreeing with Delegate Chabot, but perhaps not for the
13 same reasons that he has enumerated. I thought he was
14 going to call our attention to the recent statute which
15 abolishes the right of the State to appeal in these cases
16 before the justices of the peace in criminal matters, but
17 he didn't. Nevertheless this is a fact. The reason this is
18 in here is only as a matter of clarity. It is not very
19 important. The statute which was passed just last session
20 of the Legislature, became effective on June first, elim-
21 inated appeals by the State in criminal matters before the

1 justices of the piece, but it does not eliminate motor
2 vehicle cases. We didn't know quite what that meant. We
3 felt that was still a criminal matter. July first, 1968,
4 is when the Constitution, the new Constitution, would take
5 effect so we are not making any real changes.

6 I have no objection to it being taken out. Maybe
7 we were superabundantly careful. It makes no great issue,
8 and I believe that if the Committee of the Whole wants to
9 eliminate it, it could. We are just arguing about specks.

10 THE CHAIRMAN: Delegate Hardwicke.

11 DELEGATE HARDWICKE: The Committee on the Trans-
12 itional Provisions has no objection to this provision being
13 eliminated.

14 THE CHAIRMAN: Is there further discussion?

15 Are you ready for the question?

16 The question arises on the adoption of Amendment
17 No. 2. A vote Aye is a vote in favor; a vote No is a vote
18 against.

19 Cast your votes.

20 Has every delegate voted? Does any delegate
21 desire to change his vote?

1 The Clerk will record the vote.

2 There being 104 votes in the affirmative and
3 none in the negative, the motion is carried. The amendment
4 is adopted.

5 Delegate Johnson, do you desire to offer your
6 Amendment J?

7 DELEGATE JOHNSON: The mood seems to have shifted,
8 Mr. President. Yes, I do.

9 THE CHAIRMAN: The pages will distribute Amendment
10 J.

11 This will be Amendment No. 3.

12 The Clerk will read the amendment.

13 MR. QUILLEN: Amendment No. 3 to Committee
14 Recommendation No. GP-13 by Delegates Johnson and Rybczynski:

15 On page 2 Section 3. Delayed Effect of Certain
16 Sections strike out all of subsection (c), comprising all
17 of lines 46, 47 and 48.

18 THE CHAIRMAN: The amendment is submitted by
19 Delegate Johnson, seconded by Delegate Rybczynski.

20 The Chair recognizes Delegate Johnson.

21 DELEGATE JOHNSON: Mr. Chairman, Ladies and

1 Gentlemen: I shall be very brief. All of the reasons for
2 striking Section A and all the reasons for not striking
3 Section A are applicable, with one very very important
4 difference, and in particular, in Section A we were talking
5 about property damage. We were talking about alleged
6 damages as a result of taking of property.

7 The reason that we, in spite of the last vote,
8 submitted this section is because there is quite a differ-
9 ence between the two sections. In sovereign immunity we are
10 talking about for all practical purposes, tort claims,
11 injuries.

12 This Constitutional Convention saw fit and
13 properly so to put a provision in the Constitution which
14 affected the State's right to plead sovereign immunity, and I
15 think that was a very, very good step forward, but to delay
16 this for one year and a half, while although it gives the
17 Legislature an opportunity to set guidelines, what about the
18 injuries and damages?

19 We are talking about human life and limbs now,
20 Ladies and Gentlemen, and I don't mean to become dramatic
21 about this. I am not trying to frighten my votes, but I am

1 concerned about the very practical application to this
2 section.

3 It seems totally improper and totally unfair to
4 me to create a right and to delay for a year and a half,
5 which will cause and create suffering by individuals, to
6 the extent that they probably will not recover, because the
7 State in that year and a half will be able to plead sover-
8 eign immunity.

9 I don't want to take part in a proceeding which,
10 while purporting to give rights to all the citizens of
11 the State, going to delay the right for a year and a half,
12 just to give the Legislature a little more time to define
13 the right.

14 I submit that the Legislature will define the
15 right as of July 1, 1968.

16 I don't want to take part in seeing injury and
17 damages caused to children, to adults, and then have to
18 explain to them that if that injury or damage would have
19 occurred after January 1, 1970, they would have been entitled
20 to recovery, but because their injury or damage occurred
21 between July first, 1968, and January 1, 1970, they are

1 not entitled to the recovery because the State can plead
2 sovereign immunity.

3 Citizens of this State have waited well over a
4 hundred years for a section of this nature and to delay
5 another year and a half, after providing for it in the
6 Constitution, to delay it is a serious mistake.

7 THE CHAIRMAN: Delegate Kiefer.

8 DELEGATE KIEFER: Mr. Chairman, Ladies and
9 Gentlemen of the Committee: I rise to urge that you defeat
10 this amendment and I must give you some of the background.

11 The Committee on Personal Rights and Preamble
12 debated this question long and hard. We discussed it at
13 great length from the point of view that this was a very
14 new and serious step in the State of Maryland.

15 I think we pointed out to this Committee as a
16 Whole that this has been accomplished in three ways in
17 this country: 1, it has been done by constitutional convent-
18 ions, with some kind of limitations, in order to permit
19 the State to get prepared for this; secondly, in a few
20 states it was done by court decisions, in specific areas;
21 and thirdly, it has been done by the Legislature in other

1 areas in other States.

2 Now, this is not just a tort action concept
3 that Delegate Johnson is bringing forth to you. It goes
4 much further than that. It involves contractual matters in
5 which the State is involved. It involves suits against the
6 State Roads Department for contractual matters, it involves
7 every kind of conceivable action.

8 When the Committee debated this thing, there
9 was considerable doubt as to whether this matter should be
10 put in the Constitution at all. When it was decided to put
11 it in, there was no question in everybody's mind that there
12 must be a reasonable opportunity for the Legislature to
13 define the scope of liability by way of making whatever
14 saving it wants to. I know of no State where there is a
15 complete and absolute right of suit in every respect
16 without any curtailment by the Legislature. We feel that
17 the Legislature should have at least one session within
18 which to make whatever adjustments it wants. This is only
19 fair. There has never been any question about this as far
20 as the Committee is concerned and I think there was some
21 recommendation, maybe in an ancillary report, where the
suggestion was made that it be put off even longer.

1 Maybe Delegate Willoner will recall that, but
2 I believe the Committee was quite firm in its feelings that
3 the Legislature should have some change to make some kind
4 of definitive, take some kind of definitive action on this.

5 I would therefore urge that you reject this
6 amendment.

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1 THE CHAIRMAN: Any other delegate desire to
2 speak in favor?

3 Delegate Churchill Murray?

4 DELEGATE C. MURRAY: Mr. Chairman, ladies and
5 gentlemen, I felt it necessary to oppose Delegate Johnson's
6 first amendment, not because it wasn't fair, not because it
7 shouldn't be supported, but for the practical reason that I
8 do think that you have to give the Legislature some time in
9 which to make inquiry, to establish guidelines and to make
10 this into a working thing.

11 As you all know from the number of times that I
12 have spoken on this subject, I feel there is a moral obliga-
13 tion here, and the sooner we can start discharging it the
14 better. However, this amendment does deal largely with
15 personal injuries. It does deal with injury and damage done
16 and more easily determinable. I can't think of any good
17 right, and I don't recall -- perhaps I should, but I don't
18 recall -- any discussion within our committee which led to
19 or would lead to a deferment of the acceptance of this
20 responsibility. If it is a right, and I believe that it is
21 a right, then I believe we should accept it immediately.

1 THE CHAIRMAN: Any other delegate desire to speak
2 in favor? Delegate Groh?

3 Any other delegate desire to speak in opposition?
4 Delegate Groh?

5 DELEGATE GROH: Ladies and gentlemen, I would just
6 like to point out that we had some opposition on the part of
7 municipalities and other units that would be affected by
8 this and that we felt it necessary to give a short period of
9 time for them to obtain the necessary assurance and also for
10 the Legislature to find this without opening it up com-
11 pletely, and I feel that to avoid serious opposition on the
12 part of units of government to this, we should give this
13 concession, as set forth in the Transitional Provisions.

14 Thank you.

15 THE CHAIRMAN: Any other delegate desire to speak
16 in favor? Delegate Willoner?

17 DELEGATE WILLONER: I just wish to clear the
18 record up. I don't really want to speak in favor of it.
19 May I make comment?

20 THE CHAIRMAN: You may.

21 DELEGATE WILLONER: I believe it was the intent

1 of the committee that the right of sovereign immunity shall
2 be eliminated, and if the Legislature had problems with it,
3 they could protect those areas and the sentiment to allow
4 the Legislature to define sovereign immunity but just to
5 protect certain areas if they develop problems in those
6 areas.

7 THE CHAIRMAN: Any other delegate desire to speak
8 in favor of the amendment? Delegate Hargrove?

9 DELEGATE HARGROVE: I have a question I would
10 like to ask. I might ask the Chair, because it doesn't re-
11 late directly to the amendment.

12 THE CHAIRMAN: Very well. State the question.

13 DELEGATE HARGROVE: Would the sovereign immunity
14 provision, would it encompass the possibility that the
15 General Assembly might deprive the person of a jury trial in
16 this area, in view of Section 1.13?

17 As we all know, in the Federal Tort Claims Act
18 there is a similar thing. There is prohibition against jury
19 trial by a plaintiff.

20 THE CHAIRMAN: I am not sure I follow your
21 question, Delegate Hargrove.

1 DELEGATE HARGROVE: I will put it this way, Mr.
2 Chairman. Would Section 1.13 prevent the General Assembly
3 from setting up as a part of the sovereign immunity
4 provision or some legislation setting out the areas in which
5 suits can be had the right, or prohibited the right, to a
6 jury trial?

7 THE CHAIRMAN: I follow you. I would not think
8 so myself. The section on sovereign immunity as amended by --
9 or on second reading -- is not before you simply because the
10 original name was in the Declaration of Rights when this
11 Schedule of Transitional Provisions was prepared but is now
12 in Article 8. However, it reads, "Sovereign immunity may
13 not be pleaded as a defense in suits against the State or any
14 units of local government, or any of their departments or
15 agencies, except to the extent and in the manner prescribed
16 by law."

17 I take it that means that the General Assembly
18 determines the extent to which you may or may not plead
19 sovereign immunity. I would think that the provision with
20 respect to jury trial would be applicable, in any case as to
21 which sovereign immunity could not be pleaded.

1 Delegate Gilchrist.

2 DELEGATE GILCHRIST: Mr. Chairman, ladies and
3 gentlemen, I should like to urge the delegates to vote
4 against this amendment, for two very good reasons: One of
5 them is that the provision itself requires the Legislature
6 to stipulate the conditions under which sovereign immunity
7 may be pleaded. You put this provision into effect on July
8 1, 1968. It would allow the Legislature from May 14 until
9 July 1 to establish standards. There are 24 counties in this
10 State, there are 152 municipalities and there are countless
11 agencies and boards operating either on a governmental or
12 quasi-governmental basis who need to be able to protect
13 themselves against suits arising because of the abolition of
14 the doctrine of sovereign immunity.

15 It has been 190 years since this doctrine started
16 its existence in Maryland law. To abolish it and to say
17 that all of the governmental agencies in the State of
18 Maryland had six weeks in order to find an opportunity to
19 protect themselves is ridiculous.

20 I suggest strongly that you would be doing an
21 extreme disservice to all of the agencies of local government

1 and State government if you pass this amendment.

2 THE CHAIRMAN: Delegate Johnson.

3 DELEGATE JOHNSON: Mr. Chairman, I just want to
4 say this in rebuttal to what Delegate Gilchrist has said.
5 The General Assembly and the subdivisions of this State do not
6 have six weeks, Delegate Gilchrist and fellow delegates.
7 They have six months. They have from the time we draft this
8 Constitution to prepare for this particular provision. I
9 suggest and submit that they will do so if you act accord-
10 ingly.

11 THE CHAIRMAN: Are you ready for the question?
12 Delegate Hardwicke?

13 DELEGATE HARDWICKE: Mr. Chairman, I would just
14 like to state very briefly that in general it has been our
15 policy that where the Legislature must do something or is
16 permitted by this Convention to do something before a given
17 section can be implemented, we have delayed the effect of
18 that implementation, and I think that we mean what we say
19 when we adopt the language in the sovereign immunity section.
20 You simply have to defer the effective date of this section.
21 I don't see how you can consistently do anything

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1 except put off that effective date and vote this amendment
2 down.

3 THE CHAIRMAN: Are you ready for the question?
4 The question arises upon the adoption of Amendment No. 3.
5 A vote Aye is a vote in favor of the amendment. A vote No
6 is a vote against.

7 Cast your votes.

8 (Whereupon, a rollcall vote was taken.)

9 THE CHAIRMAN: Has every delegate voted? Does
10 any delegate desire to change his vote?

11 The Clerk will record the vote.

12 There being 20 votes in the affirmative, 83 in
13 the negative, the motion is lost. The amendment is re-
14 jected.

15 Will you please, on your blue copy of the amend-
16 ment, correct the typographical error in the caption at
17 the top of page 3. It is, of course, not "sufferage."
18 Strike out the "E".

19 Are there any amendments to Section 4? The
20 Chair hears none.

21 Amendments to Section 5?

1 Delegate Marion, do you desire to offer your
2 Amendment K?

3 DELEGATE MARION: I do, Mr. Chairman.

4 THE CHAIRMAN: Pages please distribute Amendment
5 K.

6 Delegate Hargrove, Delegate Hardwicke has called
7 the attention of the Chair to the fact that the Chair's
8 answer to your earlier question as to jury trial in con-
9 nection with Section 3-C here, if not entirely inaccurate,
10 was certainly at least misleading. I have asked him to
11 correct the record.

12 Delegate Hardwicke.

13 DELEGATE HARDWICKE: As I understood the question,
14 Delegate Hargrove asked whether or not in a sovereign
15 immunity litigation the General Assembly could not provide
16 that there would be no right to trial by jury in such
17 instance, notwithstanding property provisions of Section
18 1.13, and Section 1.13 appears to give a very broad right to
19 a trial by jury in all civil proceedings at law in this
20 State, and it would appear that the General Assembly could
21 not curtail this right under Section 1.13, even in a

1 sovereign immunity action, and I believe that that should
2 be the answer to your question.

3 THE CHAIRMAN: Delegate Hardwicke, your further
4 clarification now raises a further doubt in the mind of the
5 Chair, because of the discussion concerning the jury trial
6 case, that the right of trial by jury of all issues of fact
7 in civil proceedings and law meant in effect in those cases
8 where the right to trial by jury existed at common law. If
9 that be true, and if the right of sovereign immunity
10 existed at common law so that there was no right to sue the
11 sovereign, might there not be some contention at least that
12 the right of trial by jury would not be absolutely protected
13 under Section 1.13?

14 I am not stating that that is a conclusion. I am
15 just raising the question.

16 Delegate Hardwicke.

17 DELEGATE HARDWICKE: I don't think that the
18 matter is completely free from doubt, Mr. Chairman. As I
19 understand it, we were not intending to create a right of
20 action in this matter. We were only intending to remove
21 a defense which the State could plead and consequently since

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1 we are not creating a right of action, it appears to me that
2 the jury trial would pertain.

3 THE CHAIRMAN: Very well.

4 Delegate James.

5 DELEGATE JAMES: Mr. Chairman, this worries me,
6 because my interpretation of this provision was to the
7 effect that this would permit Maryland to pass a Maryland
8 Tort Claims Act and to adopt such procedures as might be
9 reasonable and proper under all the circumstances, and that
10 the State would not be bound by the normal requirements of
11 the Bill of Rights, and to learn that this is in effect a
12 provision which calls for the State to go into court and in
13 all circumstances to be treated as a litigant, like others,
14 is a rather shocking interpretation, and I really can't
15 agree with it.

16 I certainly hate to see the record show that that
17 is the proper interpretation of this section.

18 There are many areas. I happen to have in-
19 troduced a Maryland Tort Claims bill which passed back in
20 the early fifties but which was vetoed by the governor. I
21 recall problems. One is whether you can place a dollar

1 limitation upon the verdict; another would be whether you
2 can handle claims up to a certain amount for administrative
3 procedures only, and after you get beyond that dollar
4 amount, what type of trial do you have? Does it apply to
5 for instance the military types of injuries?

6 There are all sorts of problems, and certainly it
7 would seem to me that to adopt the interpretation that a
8 jury trial could not be effected would be certainly an
9 extraordinarily radical view.

10 THE CHAIRMAN: Delegate James, I think that you
11 would be attributing to Delegate Hardwicke's comment
12 greater effect than he intended at all. It seems to the
13 Chair that under the provision of what was Article 8, and I
14 understand will be Article 9, Section 907, Sovereign
15 Immunity, it would be possible for the General Assembly to
16 pass a law which would not waive sovereign immunity to suits
17 against the State but would permit some administrative
18 procedure, such as you have described.

19 I think what Delegate Hardwicke is saying was
20 that if the sovereign immunity is waived so that the State,
21 the Legislature, permits a suit against the State in the

1 courts, then a question may arise as to whether the
2 Legislature could prohibit a jury trial in such a suit.

3 This might leave open a question as to whether
4 the General Assembly could provide for a Court of Claims,
5 and, without attempting to express any final opinion on
6 that, it would seem to me that such a court would not be a
7 part of the judicial system and might very well be a part
8 of the administrative setup.

9 Does that further clarify or confuse your
10 question, Delegate Hargrove?

11 DELEGATE HARGROVE: Mr. Chairman, in relation to
12 what Delegate Hardwicke said, I do believe in his answer
13 that the State might be able to set up a Tort Claims Act.
14 You will recall that the Federal Government -- in the Federal
15 Constitution there is a jury trial, I think of what, \$20 or
16 \$5? That is the common law. The government did establish
17 a Tort Claims Act. It placed not only limitations on the
18 type of suits but the juries and what have you, so I do
19 believe he did answer my question, that the General Assembly
20 can set up an act and place whatever limitations they want.
21 It is a new cause of action. I think they can limit it.

1 THE CHAIRMAN: Very well.

2 Delegate Henderaon.

3 DELEGATE HENDERSON: I would just like to say,
4 the suggestion the Chair made, that they might set this up
5 at the administrative level, but I suggest it is certainly
6 within the realm of probability that this provision which
7 we are now adopting, subject to such limitations as the
8 Legislature may impose, is a new cause of action which did
9 not exist in common law. It is more than the way, that it
10 creates an action which did not exist, and for that reason
11 it seems to me it is quite likely that even in a regular
12 tort proceeding a jury trial would not be required; for
13 example, under the Workmen's Compensation Act, although the
14 Maryland statute gives the right to a jury trial on issues
15 from the Orphans' Court, it has never been my understanding
16 that that was required by anything in the Constitution.

17 THE CHAIRMAN: Delegate Wiedemeyer.

18 DELEGATE WIEDEMEYER: Mr. President, in the
19 committee, in our discussions, and from my consideration of
20 this matter, I view it more closely in line with the inter-
21 pretation of the Chair.

1 We know this, that we have the right of jury
2 trial generally and we also have in our new Constitution the
3 privileges and immunities clause, and if the Legislature
4 decided to be sued in the Superior Courts of this State,
5 naturally I think to give them a different procedure and
6 deny them a jury trial in the Superior Court might abridge
7 the due process clause or the equal protection clause, so I
8 would think that the Legislature under this provision, since
9 it is an exception to the jury trial and other provisions in
10 that the Legislature -- it says, except to the extent and
11 manner as provided by law -- if the Legislature decided to
12 have a claims commission, or a court of claims, then it
13 might well provide that since this is a newly created right,
14 that they could provide a hearing before a court of claims,
15 without a jury trial, but I do think that if it provided
16 for the trials and suits to be brought in the Superior
17 Court, where everyone else had the right to jury trial, then
18 we might be running afoul of the equal protection or the due
19 process clause.

20 THE CHAIRMAN: Amendment K, LB-4.

21 The Clerk will read the amendment.

1 Delegate Sherbow.

2 DELEGATE SHERBOW: A matter of personal privilege,
3 Mr. Chairman.

4 THE CHAIRMAN: State the privilege.

5 DELEGATE SHERBOW: Mr. Chairman, ladies and
6 gentlemen, I hope you will give a warm welcome to three
7 young gentlemen who have just come into the gallery behind
8 the podium, Judge Ed Northrup of the U. S. District Court
9 for the District of Maryland, Judge Jerome Robinson of the
10 Municipal Court of Baltimore City, and Mr. Sam Hopkins, who
11 I think presides over his own establishment, and the husband
12 of the delegate from the Third District. May we also
13 welcome Mrs. Northrup. Will you all give them a warm
14 welcome.

15 (Applause.)

16 THE CHAIRMAN: Delegate Barrick.

17 DELEGATE BARRICK: Mr. Chairman, also in the
18 gallery is Miss Mary Storm, the daughter of Delegate Edward
19 Storm and a partner in Storm and Storm. I wish you would
20 welcome her too, please.

21 (Applause.)

1 THE CHAIRMAN: The Clerk will read the amendment.

2 MR. QUILLEN: "Amendment No. 4 to Committee
3 Recommendation No. GP-13 by Delegates Marion and Hardwicke.

4 "On page 3, Section 5, Delayed Effect of Section
5 2.06 strike out all of lines 11 through 14, inclusive."

6 THE CHAIRMAN: The amendment submitted by Dele-
7 gate Marion, seconded by Delegate Hardwicke.

8 The Chair recognizes Delegate Marion.

9 DELEGATE MARION: Mr. Chairman, I offer this
10 amendment because I believe that it is time now for the
11 pendulum to swing back to green.

12 The effect of the amendment would delete Section
13 5 on page 3 of the Schedule of Transitional Provisions.
14 To understand the need for the amendment and for the dele-
15 tion of this section, it is necessary to keep in mind three
16 other provisions: First, Section 2.01 of the Suffrage and
17 Elections Article, which establishes qualifications for
18 voting in the Constitution; secondly, Section 2.06 itself,
19 in the Constitution, which allows the General Assembly by
20 law to provide for disqualifications from voting and if so
21 to provide for the removal of those disqualifications, and,

1 finally, bear in mind on page 15 of the blue papers in front
2 of us, Section 3 in the Schedule of Legislation, which would
3 provide an interim provision for disqualifications from
4 voting, which would take effect on July 1, 1968, and which
5 would terminate one year later on July 1, 1969.

6 Unless we delete Section 5 in the Schedule of
7 Transitional Provisions, which this amendment proposes to
8 do, Section 2.06, which gives the General Assembly the
9 authorization to establish disqualifications in derogation
10 of the qualifications established in Section 2.01, there is
11 no authority for a disqualification on the basis of con-
12 viction of a criminal, or because of mental incapacity.

13 If we delay the effect of this section, therefore,
14 it is entirely possible, and perhaps probable, that Section
15 3 on page 15, in the Schedule of Legislation, would itself
16 be unconstitutional, because there would be no constitutional
17 basis for that section to stand in law.

18 The purpose of Section 5 initially was to give
19 the General Assembly the opportunity to provide for these
20 disqualifications. That is frequently done by the language
21 of Section 3 in the Schedule of Legislation, which

1 establishes an interim provision for disqualifications to
2 last just for one year, and which would no longer be
3 effective one year from the date of this Constitution, but
4 it is necessary, I submit, to delete Section 5 so that the
5 authority for that to stand is in the Constitution, which
6 we will adopt and which will become effective on July 1,
7 1968.

8 I engaged in a colloquy this morning about this
9 provision with Delegate Hardwicke. He agrees with this
10 analysis and has cosponsored the amendment. I have discussed
11 it also with Chairman Koss of the Suffrage and Elections
12 Committee and with Delegate Rybczynski, who chaired a
13 subcommittee of that committee dealing with the matter of
14 disqualifications from voting.

15 I respectfully urge that in the interest of
16 constitutionality that we adopt the amendment and delete
17 this section.

18 THE CHAIRMAN: Any discussion?

19 Are you ready for the question?

20 The question arises on the adoption of Amendment
21 No. 4. A vote Aye is a vote in favor of the amendment. A

1 vote No is a vote against.

2 Cast your votes.

3 (Whereupon, a rollcall vote was taken.)

4 THE CHAIRMAN: Has every delegate voted? Does
5 any delegate desire to change his vote?

6 The Clerk will record the vote.

7 There being 109 votes in the affirmative and
8 none in the negative, the motion is carried. The amendment
9 is adopted.

10 Are there any amendments to Section 6?

11 Delegate James.

12 DELEGATE JAMES: Mr. Chairman, I call to your
13 attention that I have a verbal amendment adopted, that the
14 language now reads "a public local law enacted prior to
15 January 6, 1971." You may not have that on your copy. This
16 was at the suggestion --

17 THE CHAIRMAN: Modification by Delegate
18 Rybczynski?

19 DELEGATE JAMES: Yes.

20 THE CHAIRMAN: Please mark your copy if you have
21 not already done so: On page 3, Section 6, line 19, strike

1 out "prior to January 6, 1971," capitalize the "A", and
2 in line 20, after the word "county" insert a comma, and
3 insert the language "enacted prior to January 6, 1971.

4 Delegate James, there seems to be a dispute on
5 the two copies as to where the language was added.

6 DELEGATE JAMES: My record shows that the
7 sentence will begin with "A public local law enacted."
8 Then you go back, "prior to January 6, 1971, for any one
9 county," so that you transpose the words "A public local
10 law," add the word "enacted", and just put that at the be-
11 ginning of the sentence. At least that was my intent.
12 However, any way would be all right.

13 THE CHAIRMAN: Delegate Penniman, this is purely
14 a stylistic question. Could you resolve it right now so we
15 don't have to change it again?

16 Delegate James?

17 DELEGATE JAMES: It might be better to do it
18 another way.

19 THE CHAIRMAN: Do you understand the question?

20 DELEGATE PENNIMAN: No.

21 THE CHAIRMAN: The question is should the

1 sentence read, "A public local law enacted prior to January
2 6, 1971, for any one county shall be referred," or should
3 it read, "A public local law for any one county enacted
4 prior to January 6, 1971, shall be referred"?

5 DELEGATE PENNIMAN: I would say the first way is
6 preferable.

7 THE CHAIRMAN: "A public local law enacted prior
8 to January 6, 1971, for any one county shall be referred."

9 The section is so modified.

10 Are there any other amendments to Section 6?

11 The Chair hears none.

12 The Chair has and would like to inquire if the
13 delegates have the second installment of the draft Consti-
14 tution, which begins with Article 5, page 51.

15 There is some delay in the printing with respect
16 to Article 3 and 4. I think it would be helpful to have
17 these before us when we consider the Transitional Provisions.

18 We will therefore skip over to Section 16 on page
19 5.

20 While we are doing that, let me call your
21 attention to what many of you have already noted. There are

1 errors in several papers dealing with Article 2. The amend-
2 ments made after second reading yesterday were not picked
3 up. They are being printed and will be distributed to you
4 later, and there was one additional amendment made on second
5 reading which was not picked up. This will be distributed
6 to you later.

7 This does not affect any of the sections that we
8 have had amendments to.

9 Delegate Penniman.

10 DELEGATE PENNIMAN: I believe there is also,
11 coupled with Section 105, which is reprinted as it came from
12 the Committee on Style but not back to the way it was
13 amended on the floor by Delegate Willoner.

14 THE CHAIRMAN: I understand that has been picked
15 up and is being reprinted.

16 Are there any amendments to Section 16? The
17 Chair hears none.

18 Are there any amendments to Section 17? The
19 Chair hears none.

20 Any amendments to Section 18? The Chair hears
21 none.

1 Any amendments to Section 19? The Chair hears
2 none.

3 Any amendments to Section 19?

4 Any amendments to Section 20?

5 Any amendments to Section 21?

6 Delegate Fornos, which is the section to which
7 you have an amendment in the course of preparation?

8 DELEGATE FORNOS: Section 30 in the Transitional
9 Provisions, and then several provisions in the legislation.

10 THE CHAIRMAN: Very well; Section 22?

11 Section 23?

12 Delegate Gill.

13 DELEGATE GILL: Are we on the Judicial Branch?

14 THE CHAIRMAN: Yes, we are.

15 DELEGATE GILL: I understood that --

16 THE CHAIRMAN: You understood what?

17 DELEGATE GILL: My amendments concerning Section
18 22 and part of 22 and 23.

19 THE CHAIRMAN: Do you have an amendment concern-
20 ing Section 22?

21 DELEGATE GILL: I understand that Delegate Fornos

1 has an amendment that provides the same thing.

2 THE CHAIRMAN: Is your amendment printed?

3 DELEGATE GILL: Yes, I think so. I don't have it
4 here. Delegate Fornos has an explanation I think that com-
5 bines the two.

6 THE CHAIRMAN: Delegate Gill, these amendments,
7 "N", deal with amendments on pages 22, not to Section 22.

8 DELEGATE GILL: That is what I was going to say.

9 THE CHAIRMAN: Any amendments to Section 22?
10 Any amendments to Section 23?

11 Delegate Hickman?

12 DELEGATE HICKMAN: Mr. Chairman, Delegate
13 Wheatley has an amendment being prepared for Section 23, and
14 he is not here at the present time.

15 THE CHAIRMAN: Will the pages please distribute
16 Amendment R?

17 Delegate Hickman.

18 DELEGATE HICKMAN: Mr. Chairman, Delegate Wheatley
19 asked if we could pass over this and come back to it, as he
20 had to leave for about an hour.

21 THE CHAIRMAN: I think this is the last amendment

1 that the Chair has to the Transitional Provisions. I think
2 under the circumstances it would probably be better for us
3 to recess at this time.

4 Delegate Powers.

5 DELEGATE POWERS: Mr. Chairman, I move the
6 Committee of the Whole rise and report that it has not yet
7 concluded consideration of Committee Recommendation GP-13.

8 THE CHAIRMAN: Is there a second?

9 (The motion was duly seconded.)

10 THE CHAIRMAN: All in favor signify by saying
11 Aye; contrary, No.

12 The Ayes have it. It is so ordered.

13 (Whereupon, at 5.50 p.m., the Committee of the
14 Whole rose.)

15 (The mace was replaced by the Sergeant at Arms.)

16 THE PRESIDENT: The Convention will please come
17 to order.

18 On behalf of the Committee of the Whole, the
19 Chair reports the Convention has had under consideration
20 Committee Recommendation GP-13, that it still has it under
21 consideration and desires leave to sit again.

1 Are there any announcements necessary to be made
2 by committee chairmen before the dinner recess?

3 Delegate Scanlan.

4 DELEGATE SCANLAN: The Committee on Rules will at
5 last have its picture taken in the lounge behind the House
6 Chamber immediately following this evening's recess.

7 THE PRESIDENT: Delegate Sherbow.

8 DELEGATE SHERBOW: The Committee on State Finance
9 and Taxation will have a dinner meeting immediately after
10 this recess at the Maryland Inn. I hope every member will
11 be present.

12 THE PRESIDENT: Any other announcements by
13 committee chairmen?

14 Any other announcements by other delegates?

15 All delegates not present on rollcall early this
16 afternoon may indicate this presence on supplemental roll-
17 call now.

18 The Clerk will record the supplemental rollcall.

19 The Clerk will note the presence of Delegate
20 Pullen.

21 Delegate Powers.

1 I am sorry, Delegate Johnson, did you rise?

2 DELEGATE JOHNSON: No, sir.

3 THE PRESIDENT: Delegate Powers.

4 DELEGATE POWERS: Mr. President, I move we
5 recess until 7 o'clock.

6 THE PRESIDENT: Second?

7 (The motion was duly seconded.)

8 THE PRESIDENT: All in favor signify by saying
9 Aye.

10 Delegate Powers, the Chair was in error, 7:30.

11 DELEGATE POWERS: 7:15?

12 I move we recess until 7:15.

13 THE PRESIDENT: Second? Delegate Powers?

14 DELEGATE POWERS: I move we recess until 7:30.

15 (Applause.)

16 THE PRESIDENT: The motion is passed by
17 acclamation.

18 We were making such slow progress the Chair
19 thought this was lunch hour.

20 (Whereupon, at 5:52 p.m., the Convention re-
21 cessed, to reconvene at 7:30 the same day.)

EVENING SESSION

January 4, 1968 - 7:50 p.m.

THE PRESIDENT: The convention will please
come to order.

Roll call.

(Whereupon, the roll was called.)

THE PRESIDENT: Has every delegate answered
the roll call?

The clerk will record the roll call.

I have a note indicating that when the canteen
closed this afternoon there was an extra top coat in the
canteen. It was left with the custodial officer at the
desk in the basement. If it belongs to any of you, you may
pick it up from him this evening.

I also want to call to your attention that
you have now received the third installment of the draft
Constitution as amended on second reading. There will be
two other installments coming to you. It should be here
this evening.

I cannot resist calling to your attention the
fact that this is not a mere routine matter, that the

1 draft Constitution showing these corrections is being placed
2 on your desk this evening and earlier this afternoon, for
3 some parts of it. This really represents a tremendous
4 effort on the part of a number of people on the staff, on
5 the part of a number of the members of the stenographic pool
6 who forego their dinner hour, and particularly on the part
7 of the print shop crew who are working steadily, and
8 as I have been told in the past hour, the printing machines
9 are working, not at capacity, but at 200 percent of capa-
10 city in order to get it to you.

11 I would like to have you express your apprecia-
12 tion. (Applause.)

13 The Chair recognizes Delegate Powers.

14 DELEGATE POWERS: Mr. President, I move that
15 the Convention resolve itself into a Committee of the
16 Whole in **order** to resume consideration of the general orders
17 of the day.

18 THE PRESIDENT: Is there a second?

19 (Whereupon, the motion was seconded.)

20 THE PRESIDENT: All in favor, signify by saying
21 Aye; contrary, No.

1 The Ayes have it. It is so ordered.

2 (Whereupon, at 7:55 p.m., the Convention
3 resolved itself into the Committee of the Whole.)

4 (The mace was removed by the Sergeant at Arms.)

5 THE CHAIRMAN: The Committee of the Whole will
6 please come to order.

7 We are about to take up consideration of section
8 23 of Committee Recommendation GP-13, and I believe the
9 pages have distributed Amendment R.

10 Delegate Rybczynski, I understand that
11 Delegate Wheatley is unable to be here, and Delegate Case.
12 I have an amendment marked L that at quick glance seems
13 to be either exactly or almost exactly the same. Is this
14 correct?

15 DELEGATE RYBCZYNSKI: Mr. Chairman, I don't
16 have that amendment, but I have no intention of presenting
17 an amendment on this section.

18 THE CHAIRMAN: You do not?

19 Delegate Kiefer.

20 DELEGATE KIEFER: Mr. Chairman, I don't know what
21 happens over here, but we haven't gotten any of those things

1 that you talk about. We are sort of at a loss.

2 THE CHAIRMAN: Are you sure you don't have it?
3 It was passed out before dinner.

4 DELEGATE KIEFER: No.

5 will
6 THE CHAIRMAN: The pages/please get some additional copies of Amendment R, "R" for "Roger".

7 Any delegates who do not have the Amendment R
8 please indicate, and the pages will bring you a copy.

9 Delegate Kiefer.

10 DELEGATE KIEFER: We just now received the
11 brown sheets for General Provisions and the Executive Branch.

12 We did get Judicial before dinner.

13 Are there any of these we should have had?

14 THE CHAIRMAN: You should have three sections;
15 the section distributed earlier, which contains the covering
16 page and Articles I and II; the second group which contains
17 V, VI, VII and VIII, and the third group, which contains
18 Article IX.

19 You have yet to receive Articles III, IV, and X.

20 DELEGATE KIEFER: But we don't have I and II.

21 THE CHAIRMAN: Oh, yes, you had that earlier this

1 afternoon. That has a cover sheet on it marked simply
2 "Memo-Draft Constitution."

3 DELEGATE GRUMBACHER: We have four.

4 THE CHAIRMAN: You are further advanced than
5 the Chair.

6 Mrs. Marx, what second reader revisions are being
7 distributed? Let me have a set of each, please.

8 Does any delegate not have a copy of Amendment
9 R?

10 Amendment R was proposed to be offered by Dele-
11 gate Wheatley. The Chair is advised that he is not avail-
12 able. Several other delegates have been requested or
13 sent messages to present it on his behalf. They are unwill-
14 ling to do so.

15 Does any other delegate desire to offer Amendment
16 R?

17 Delegate Della?

18 Does everyone have a copy of Amendment R?

19 This will be Amendment 5. The clerk will read
20 the amendment.

21 MR. QUILLEN: Amendment No. 5 to Committee

1 Recommendation No. GP-13, by Delegate Della:

2 On page 7, Section 23, Continuance in Office -
3 Judges of Limited Jurisdiction, in lines 31, 32 and 33
4 strike out the following:

5 "Anne Arundel, Cecil, Montgomery, Prince George's and Wicomi-
6 co Counties" and insert in lieu thereof the following words:
7 "any county"; and

8 In lines 49 and 50 strike out the following:

9 "and each judge of the Housing Court of Baltimore County".

10 THE CHAIRMAN: The amendment is submitted by Dele-
11 gate Della. Is there a second?

12 (Whereupon, the motion was seconded.)

13 THE CHAIRMAN: The amendment having been seconded,
14 the Chair recognizes Delegate Della.

15 DELEGATE DELLA: Mr. President, unfortunately
16 Delegate Wheatley had to go to a meeting with the hospital
17 board, and requested that I try to introduce his amendment
18 for him.

19 What the amendment does is give to the counties
20 through the right of the legislature, to set up the courts
21 which would meet the qualifications of the proposals that

1 we have adopted and it would also include there that each
2 judge of the Housing Court of Baltimore County through the
3 act of the General Assembly in meeting the qualifications
4 set forth in the proposals we have before us.

5 That is the substance of the amendment, Mr.
6 President, we in Baltimore City have that system and appar-
7 ently our municipal court and our peoples court is going
8 to be adopted into the district court system. And Delegate
9 Wheatley was very much interested in Baltimore County ap-
10 parently because of the hospital that he is associated
11 with is very close to Baltimore County and I think that is
12 the reason Amendment R was proposed and I would like to see
13 the amendment through his desire be adopted.

14 THE CHAIRMAN: Are there any questions of the
15 sponsor of the amendment?

16 Delegate Sollins.

17 DELEGATE SOLLINS: Delegate Della, would you
18 yield for a question?

19 THE CHAIRMAN: Delegate Della.

20 DELEGATE DELLA: I always yield to a question.

21 THE CHAIRMAN: Delegate Sollins.

1 DELEGATE SOLLINS: I should perhaps ask Delegate
2 Wheatley but in his absence would it be fair to characterize
3 this amendment as an attempt to make provision for the Gen-
4 eral Assembly to establish the Pine Anderson Statton Pine
5 Court Reform Plan for Baltimore County?

6 THE CHAIRMAN: Delegate Della.

7 DELEGATE DELLA: I don't always look upon evil
8 in every proposal. I think you have got to look upon the
9 merits of the thing and certainly I have no connection with
10 Dale Anderson or Jim Pine, but I think you have extended
11 that right to Cecil County, Anne Arundel and Montgomery
12 and Prince Georges and Wicomico and I think Baltimore County
13 would like to join with this group.

14 Does that answer the question, Delegate Sollins?

15 THE CHAIRMAN: Delegate Sollins.

16 DELEGATE SOLLINS: I think you said yes, is that
17 correct, Delegate Della?

18 THE CHAIRMAN: Delegate Hardwicke.

19 DELEGATE HARDWICK: Mr. Chairman, I think Dele-
20 gate Sollins hit at the problem. You will notice that all
21 of these courts referred to in lines 32 and 33 are existing

1 courts and if we strike those lines and insert the words
2 "any county" then courts set up in the various counties
3 including Baltimore County or other counties by December
4 31, 1969, will be perpetuated in the new Constitution, that
5 is contrary to our intention. It is a device to perpetuate
6 persons in office and courts that we don't intend to per-
7 petuate in office and I urge you to vote against this amend-
8 ment.

9 THE CHAIRMAN: Any further discussion, Delegate
10 Mudd?

11 DELEGATE MUDD: Mr. Chairman and fellow Delegates,
12 I am not sufficiently informed apparently to ask meaningful
13 questions of the substitute sponsor of this amendment but
14 without being informed as I should be, I do recognize this
15 as an amendment to do violence to the judicial article and
16 our concept of the district court and I therefore oppose it
17 as entirely inconsistent with the thought that our commit-
18 tee has had and the whole idea of improving the system of
19 courts of limited jurisdiction, this amendment would permit
20 much more than proponent Della has suggested. It would
21 not require that these courts set up between now and the

1 effective date of December 31, 1939, be peopled with judges
2 who comply with the eligibility requirements of Section 5.14.
3 It is an attempt to blanket into the district court system
4 as of December 31, 1969, any full-time judge of any court
5 of any county designated as a people's court which obviously
6 is a dangerous and far-reaching possibility and we therefore
7 resist the amendment.

8 THE CHAIRMAN: Any further discussion?

9 Delegate Weidemeyer.

10 DELEGATE WEIDEMEYER: Mr. President, what puzzles
11 me a little bit and I don't know, maybe somebody could tell
12 me, is the judge of the Housing Court of Baltimore County
13 a constitutional or a statutory judge created by the General
14 Assembly or is he created by ordinance of the Baltimore
15 County Council?

16 THE CHAIRMAN: Delegate Hardwick, can you respond
17 to the inquiry?

18 DELEGATE HARDWICK: Delegate Weidemeyer, this
19 court is established by the General Assembly.

20 THE CHAIRMAN: Any further discussion?

21 Delegate Grant.

1 DELEGATE GRANT: I have two questions, No. 1 is,
2 are all the courts now enumerated populated with judges who
3 would be qualified to become district judges, that is are
4 the attorneys as required by the article?

5 THE CHAIRMAN: Delegate Hardwick.

6 DELEGATE HARDWICK: Delegate Grant, the courts
7 listed in lines 31, 32 and 33 are full-time judges estab-
8 lished by the Constitution as full-time judges. They are
9 lawyers, they meet the requirements of judges on the dis-
10 trict court. The other judges, the part-time judges and
11 so forth, do not. This language has been thought out very
12 carefully. These judges in the enumerated courts do meet
13 the requirements of district judges. We don't know what
14 could be done if we strike this out and use the phraseology
15 any county in lieu of the enumerated counties.

16 THE CHAIRMAN: Delegate Grant.

17 DELEGATE GRANT: My second question would be
18 concomitant, even if such courts were set up, if the judges
19 did not meet the qualifications of the district judge,
20 could they then become district courts?

21 THE CHAIRMAN: Delegate Hardwick.

1 DELEGATE HARDWICK: They might or they might
2 not. The problem is that this would be an attempt if a
3 great number of judges were set up in these courts to cause
4 them to be automatically transferred over to the district
5 courts so that they would retain and have constitutional
6 status under the new Constitution.

7 THE CHAIRMAN: Delegate Grant.

8 DELEGATE GRANT: Do I interpret it then that
9 you mean this to be a grandfather clause which would out-
10 weigh the requirements which are set up in the Constitution
11 for the qualifications of a judge.

12 THE CHAIRMAN: Delegate Hardwick.

13 DELEGATE HARDWICK: Yes, and the reason is that
14 these courts were set up not in contemplation of our
15 having a new Constitution. They were set up at the latest
16 date in the last session of the General Assembly and by
17 reason of that fact we believe that they were organized
18 with regard to performing a proper function and with regard
19 to need and not with regard to the State taking over cer-
20 tain obligations. We believe if you open this door to any
21 county that there will be log rolling and padding of the

1 various courts with a view to having the State take over
2 their functions and taking over a great number of unneces-
3 sary positions.

4 THE CHAIRMAN: Any further discussion? Are you
5 ready for the question? The Clerk will ring the quorum
6 bell.

7 The question arises on the adoption of Amendment
8 No. 5.

9 A vote Aye is a vote in favor of the amendment;
10 a vote No is a vote against.

11 Cast your vote.

12 Has every delegate voted?

13 Does any delegate desire to change his vote?

14 The Clerk will record the vote.

15 There being 17 votes in the affirmative and 87
16 in the negative, the motion is lost and the amendment is re-
17 jected.

18 Are there any further amendments to Section 23?
19 The Chair hears none. Any amendments to Section 24? Sec-
20 tion 25?

21 Delegate Rybczynski.

Any other amendment to Section 25?

The Chair hears none.

Section 26?

Section 27?

Section 28?

Section 29?

Section 30?

Section 31?

Section 32?

Section 33?

Section 34?

Section 35?

Section 36?

Section 37?

Section 38?

Section 39?

Section 40?

Section 41?

Section 42?

That brings us to the schedule of legislation.

You have now received or should have received

1 all copies of the draft Constitution to and including
2 Article 9 and in particular including Article 3. You should
3 have five packets in the brown paper, Articles 1 and 2, one
4 covering Article 3, one covering Article 4 and one covers
5 Articles 5, 6, 7 and 8, one covering Article 9.

6 For what purpose does Delegate Scanlan rise?

7 DELEGATE SCANLAN: Parliamentary inquiry, Mr.
8 Chairman.

9 THE CHAIRMAN: State the inquiry.

10 DELEGATE SCANLAN: I wonder whether or not it
11 would be improper at this point to ask that we take a vote
12 on the schedule of the Transitional Provisions that we
13 have just gone through and at least get that out of the way
14 in the Committee of the Whole before we take up the schedule
15 of legislation.

16 They are clearly divisible, of course, and in
17 the interest of tidying up and getting behind us what I
18 think we have before us it might be in order. I just offer
19 it as a suggestion to the Chair.

20 THE CHAIRMAN: I will be glad to do it as soon
21 as we conclude consideration of Articles 3 and 4 of the

1 Transition Provisions. We will take up Article 3 at this
2 time.

3 Does everyone have a copy of the tan paper
4 copies that I have just enumerated? You should have five
5 of them, which gives you a complete set of Articles 5
6 through 9. Any delegates who do not have a complete set
7 please indicate and the pages will bring them to you.

8 We will revert to consideration of Section 7 of
9 the Schedule of Transitional Provisions, page 3 of the
10 blue copy, Section 7 is open to amendment.

11 Delegate Boyer, do you desire to offer your
12 Amendment 8?

13 DELEGATE BOYER: Mr. President, Section 7, of
14 course, deals with the delayed effect of certain sections.
15 It is my respectful suggestion that the main thrust of my
16 amendment would come in Section 8 and I would respectfully
17 suggest that we consider Amendment A first on Section A,
18 then if it is adopted we would submit Amendment 8 as a
19 housekeeping amendment.

20 THE CHAIRMAN: Delegate Gallagher, would you
21 concur?

1 concur?

2 DELEGATE GALLAGHER: I would.

3 THE CHAIRMAN: For what purpose does Delegate
4 Carson rise?

5 DELEGATE CARSON: Point of personal privilege,
6 Mr. Chairman.

7 THE CHAIRMAN: State the privilege.

8 DELEGATE CARSON: I would like the Convention to
9 recognize and have the Convention meet my family. My dad
10 and my mother, my aunt, Miss Elizabeth Smith, Mr. and Mrs.
11 O. L. Carson, and my sister and her husband who is on his
12 way to Vietnam. (Applause.)

13 THE CHAIRMAN: We will pass over further con-
14 sideration of Section 8 on page 3; I am sorry, Section 7 on
15 page 3, and proceed to a consideration of Section 8 on
16 page 4. Will the pages please distribute Amendment A, "A"
17 for "Able".

18 This will be Amendment No. 6. The Clerk will
19 read the amendment.

20 MR. QUILLEN: Amendment No. 6 to Committee
21 Recommendation No. GP-13, by Delegates Boyer, Baumann,

1 Hickman, Hostetter, Johnson, Kahl, Linton, Malkus, Mosner,
2 Ritter, K. L. Robie, Rollins, Rosenstock, Rush, Rybczynski,
3 M. H. Smith, Vecera, Webb and Weidemeyer:

4 On page 4 Section 8. Redistricting. in line 5
5 strike out the numerals "1970" and insert in lieu thereof
6 the numerals "1974".

7 THE CHAIRMAN: The amendment is submitted by
8 Delegate Boyer and seconded by co-sponsors. The Chair
9 recognizes Delegate Boyer.

10 DELEGATE BOYER: Mr. Chairman and Ladies and
11 Gentlemen of the Committee of the Whole: For the past three
12 and three-fourths month, this Convention has diligently
13 applied itself, I think efficiently and adequately to the
14 mammoth task and though I am sure that the Constitution
15 that we have adopted and hammered out so far probably does
16 not appease or please everyone, yet I think on the whole
17 that we have hammered out an acceptable document. During
18 this time some of us have felt more keenly about certain
19 items than others.

20 Civil rights, labor, local government and other
21 problems have marched across this stage and into the wings.

1 Though I have been interested in all that we
2 have had, I personally feel more keenly about this particu-
3 lar problem.

4 Amendment A before you is not a hard problem to
5 understand. It changes the effective date from November
6 1970 to November 1974 on the reapportioned General Assembly
7 and let me tell you why I think this should be adopted.
8 The Supreme Court in Lucas versus Rhodes decided on December
9 the 4th, 1967, in an Ohio case, that, and I read from the
10 Washington Post of December 6th in that Ohio case there was
11 a redistricting problem in the conventional districts.
12 The State of Ohio had accepted some unofficial figures for
13 population distribution and bases and these unofficial
14 figures were from chambers of commerce and other semi-
15 quasi judicial legislative or executive departments but
16 the composite result before the Supreme Court for decision
17 was whether or not these figures were official or unoffi-
18 cial.

19 In the Washington Post, it says that unofficial
20 population statistics are, of course, are unreliable guides
21 in determining the representation of any area.

And it further says, "Since there is no

1 acceptable way of measuring the shifts until the 1970
2 census, all redistricting efforts in the next two years
3 will leave much to be desired.

4 We would propose by this amendment that rather
5 than to act in haste and repent in leisure that we would
6 wait until the official 1970 census figures are available.
7 It appears to me that you can only have two sets of figures,
8 either official which would be the census or unofficial and
9 I don't see any other way that you can derive or arrive
10 at any other situation.

11 The Washington Post, and I quote again on this
12 Lucas versus Rhodes that state officials had defended the
13 legislature's decision by saying that it had taken into
14 account population shifts after 1960 but the unofficial
15 status and statistics relied upon by the lower court con-
16 cluded that the disparities would not be greater than those
17 which would result from a 1967 distributing based wholly
18 on the 1960 census. It was this conclusion that the Supreme
19 Court overturned. I read from the New York Times a letter
20 from the Attorney General of the State of New York, our
21 sister state up there is having exactly the same throes of

1 growing pains that we are. The State of New York had ex-
2 actly the same problem before it, whether or not to use
3 official census figures or unofficial figures based on
4 something other than the census figures.

5 And the Attorney General for the State of New
6 York said, "The appeal which was joined in by the principal
7 officers of both Houses of the State Legislature was not
8 directed at circumnavigating the application of the prin-
9 ciple, the so-called catch phrase of one man, one vote
10 but it was taken with the recognition that this principle
11 cannot be achieved with any degree of accuracy in the
12 absence of up-to-date, state-wide population figures. Ac-
13 curacy", the court said, "would call for a decree which
14 would be based upon the 1970 census. The confusion over
15 determining which population figures would be used in any
16 reapportionment prior to 1970 was noted by the court. The
17 appeal attempted to bring to the court's attention the
18 disorder and the disruption of representation processes
19 which will necessarily arise from three changes in con-
20 gressional constituency including the present districts
21 during the six-year period. Now, you will be told, I am

1 positive, that this 1970 figure will be based upon some
2 statistical information given by one of the State agencies
3 and you will be told that this will modernize it.

4 well, I personally don't want to be panicked
5 or stampeded into any inappropriate action. It is hard to
6 stand in the way of progress and perhaps some day we will
7 come to computerize society. I hope I don't see the big
8 brother day.

9 THE CHAIRMAN: Delegate Boyer, you have one
10 minute.

11 DELEGATE BOYER: I don't think we should be
12 confused by these red herrings of deviations and figures.
13 I think the figure before us is shall we accept 1970 census
14 figures as the official figures or something else which
15 could be determined just as easily by Ginger Dorsey barking
16 on some problem like this or having some State agency swear
17 and verify that these are accurate. I think they are just
18 as accurate and I would strongly urge you Ladies and Gentle-
19 men to seriously consider the problem.

20 We just reapportioned the General Assembly in
21 1966. We would do it again in 1970 when the population

1 figures come out in 1971, we will do it again. This will
2 be three times in a six-year period.

3 THE CHAIRMAN: You have one quarter minute.

4 DELEGATE BOYER: I can only close with this: I
5 think that no matter what happens here that it would be to
6 the best interests of all the people of the State of
7 Maryland to act on some official populations figures deter-
8 mined by some official agency and nothing else.

9 I urge you to vote for the amendment.

10 THE CHAIRMAN: Delegate Gallagher.

11 DELEGATE GALLAGHER: Mr. Chairman, and Ladies
12 and Gentlemen of the Committee: For over twenty-five years
13 the people of Maryland have been trying to get fair
14 apportionment. We are asked by the sponsors of the amendment
15 which you have before you, Amendment No. 6, to ask them
16 please to wait another seven years or six years until 1974.

17 Delegate Boyer would have you believe that the
18 General Assembly of Maryland has addressed itself in a
19 proper and adequate fashion to this problem, but that is
20 hardly the true legislative history of this matter as those
21 who have followed the attempts of those to get general

1 reapportionment can well testify to.

2 The whole thrust of the argument which the
3 sponsors of the amendment would make to you is this, that
4 there is only one official figure for population and
5 that is the Federal census figures.

6 I submit to you that that is not the case. I
7 submit to you that in providing that interpretation that
8 you have been misled, that letters to the editor of the
9 New York Times notwithstanding and interpretations of the
10 Washington Post notwithstanding, that the Supreme Court
11 of the United States has indicated that there are other
12 avenues to obtain official figures of population other
13 than the Federal census and I will discuss the case of
14 Rhodes v. Ohio and the language actually used rather than
15 a newspaper interpretation, but I want to make it perfectly
16 clear that when the Legislature reapportioned in 1966 that
17 it presented the most miserable yet legal collection of
18 approach to this problem that you can have.

19 In reality, the Legislature passed two bills,
20 Senate Bill 5 and Senate Bill 8. One of them was so
21 obviously so unconstitutional that the Court of Appeals
had no problem and it looked at the other and it said

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and the role of the accounting system in providing reliable financial information.

2. It then outlines the various methods used to collect and analyze data, including interviews, surveys, and focus groups, and how these methods are used to identify trends and patterns in the data.

3. The next section describes the results of the study, highlighting the key findings and the implications for practice. It also discusses the limitations of the study and the need for further research in this area.

4. Finally, the document concludes with a summary of the main points and a list of references. The references include a mix of academic journals, books, and other sources, providing a comprehensive overview of the current state of the field.

1 it is barely constitutional in 1966, but under the
2 circumstances it follows a pattern of trying to provide one
3 delegate to each county. We will let it go by.

4 Now, I submit to you that in 1966 the deviations
5 which were considerable then and as you may see from the
6 memorandum which you have before you, they amounted to
7 sixty-five per cent from the norm, that those deviations
8 existing in 1966 will be worse by 1969, and even more
9 horrendous by 1974, so we have an intolerable situation,
10 a marginal situation from a legal point of view and we
11 are asked to swallow one's gain and to go along with this
12 miserable situation which grows more intolerable every year
13 in the name of making things nice and easy for those who
14 want to get ready to adjust themselves.

15 I submit to you that the adjustment period has
16 long since passed and that it is time to give the people
17 of Maryland adequate apportionment, fair apportionment, and
18 we have already provided the method of deviation and the
19 means of deviation we have suggested is fifteen per cent.

20 Now, Ladies and Gentlemen, our Committee has
21 made adequate inquiry into the fact that the State Planning

1 Department is able to provide very accurate figures and
2 collect them in the year 1969. They are not projections.
3 They do not look for-ard. They are actual counts carried
4 on in a scientific manner and have been demonstrated to be
5 accurate in many areas of the country and the State of
6 Maryland as well.

7 Now, I have before me the case of Rhodes vs. Ohio,
8 and I should like to tell you what figures were used which
9 were struck down by the majority of the Supreme Court. They
10 were figures provided by the Ohio Department of Development.

11 I am reading from the two-judge majority opinion
12 of the two-judge court, the Citizens League for Cuyahoga
13 County and the Columbia research staff.

14 The evidence does not disclose that any informa-
15 tion was supplied by any official State agency which
16 might have conducted a statewide physical population census.
17 When the Supreme Court struck down the acceptance of these
18 consumer figures, it did so without an opinion. Consequently,
19 you must look to the dissenting opinion which indicates that
20 the reason why the majority found it unacceptable was because
21 unofficial figures and I submit to you that within the

1 realm of both the two-judge majority opinion, below, and
2 the minority opinion as well that it is perfectly obvious
3 that had Ohio used State official figures that it would
4 have been acceptable despite the fact that there was a
5 thirty-one per cent deviation in the aggregate.

6 I submit to you Ladies and Gentlemen that we
7 have before us an opportunity to do substantial justice.
8 We can obtain figures in 1969 which will provide the
9 counties of this State and the areas of this State and most
10 particularly the people of this State with the representa-
11 tion to which they are entitled.

12 If we are to wait, if we are to let six years
13 go by, I submit to you that there is a possibility that the
14 gains which we have gotten here in this particular
15 Constitutional Convention may be whittled away and that
16 there will many opportunities to set aside the hard-fought
17 victories that we have won.

18 Ladies and Gentlemen, this is a delaying device.
19 It is the death knell of the great progress which we have
20 afforded to the people of the State of Maryland and I
21 urge you to defeat this stultifying and deceit-laden

1 amendment.

2 THE CHAIRMAN: Delegate Raley.

3 DELEGATE RALEY: Mr. Chairman and Members of
4 this Convention, after Mr. Gallagher's elloquence I hated
5 to get up here, but I think we might say here, it isn't
6 asking for much for the small counties.

7 I think you can remember that already the
8 urban areas have three quarters of the control of the
9 Legislature. Just to wait a few more years doesn't really
10 make that much difference to gain almost total and complete
11 control. It does mean something to those small counties.
12 It means an awful lot. I just hope that you will think
13 about that. You have already got the power. You have
14 already got control. You can do anything you want to do.
15 This does mean something to the small counties.

16 THE CHAIRMAN: Any other delegate desire to speak
17 in opposition?

18 Delegate Henderson.

19 DELEGATE HENDERSON: I don't want to make any
20 horatorical speech on this subject if I could, but I do
21 feel in my opinion it would be very dangerous to delay

1 for six years in restricting the construction of a new
2 Legislature.

3 I want to say this, as I read the decisions of
4 the courts as I do from time to time in this field, the
5 lines are getting drawn tighter and tighter and there is
6 no question in my mind that the present Legislation if
7 attached in the courts would be held to violate the
8 principle of one man and one vote and for that reason,
9 among others.

10 I also have read recently a good deal of litera-
11 ture on the subject of the computerized arrangements and
12 the census tracts and the modern methods that are being
13 used which according to some writers are far superior to
14 the Federal business which in one article I read said that
15 a great many people had been missed in the Federal census
16 which probably might have shown up in the census tract
17 system of computations.

18 Apparently those have been accepted by the
19 courts at least the ones that are made under official State
20 auspices and every argument that I can see calls for a
21 reapportionment in 1970 rather than four years later.

THE HISTORY OF THE
 UNITED STATES OF AMERICA
 BY
 JOHN F. JOHNSON
 VOL. I
 NEW YORK
 1875

1 THE CHAIRMAN: Any delegate desire to speak in
2 favor?

3 Delegate Rosenstock.

4 DELEGATE ROSENSTOCK: Mr. Chairman and Fellow
5 Delegates: I just want to give you the benefit of the
6 experience I had last year in working with biostatistics.
7 We had statisticians from the State Planning Department,
8 The State Health Department, the University of Maryland,
9 The State Department of Education, the State teachers
10 colleges, and fortunately we were loaned two gentlemen by
11 the American Telephone and Telegraph Company through the
12 local offices of the C&P Telephone Company.

13 When we started to analyze population growth
14 in Maryland, we found that the greatest problem was the
15 in-migration and migration within the large counties of
16 Maryland, particularly Montgomery and Prince Georges Counties.
17 The Telephone Company had to admit that in those two
18 counties it was very difficult to plan for any growth because
19 there were so many people coming into the scientific indus-
20 tries, and all. It was very clear in some of the small
21 counties there were no problems.

1 Now, since we have developed the single delegate
2 district, it will be necessary to learn the population of
3 each election district in each county because there will
4 be many counties where there will be a divided delegate in
5 a delegate district and to do that it will almost be
6 necessary to have the official census, that is two election
7 districts will hardly be available before 1971.

8 THE CHAIRMAN: Delegate Hopkins.

9 DELEGATE HOPKINS: We have talked a great deal
10 about what we would do when we went. How about how we
11 would tell the voters about this Constitution and what the
12 voters would accept? I ask all of you if we say we thought
13 it was a good idea in 1967-1968, but we really don't think
14 you should adopt it until 1974, that we are going to look
15 a little bit silly.

16 Now, Chairman Gallagher has already told you
17 how carefully the members of the Committee on the Legislative
18 Branch went into the problem of finding out what the
19 figures are on the population statistics, how we should
20 apportion.

21 We have given to the members of the still current

1 General Assembly the ways to most fairly apportion. We
2 have done the best job that we can. At this point it
3 would be absolutely foolish for us to change the work of
4 several months. We have gone into this as carefully as
5 we have. This is not the time to suddenly postpone for
6 four years the decisions we have already arrived at.

7 I urge the defeat of this amendment.

8 THE CHAIRMAN: Are you ready for the question?
9 Delegate Boyer.

10 DELEGATE BOYER: I don't know if it is in order
11 to have one last word on this in rebuttal. It has been
12 mentioned that our figures are out of date now. Our
13 figures will be out of date in 1969, it is said. Our
14 figures will be out of date in 1972 and so on, ad infinitum.

15 It would be difficult to computerize it every
16 other year. There is a historical basis for census figures.
17 We have used it since the birth of this country. Don't
18 swallow this gilded pill blindfold. Think what we have
19 done over the past several hundred years on census figures
20 and reject the figure of computerization.

21 I don't know where this will lead to. Perhaps

1 next year they will computerize what income tax you must
2 pay or the real estate taxes or maybe the next generation
3 who your spouse shall be.

4 This is computerization. I suggest historically
5 it is a sound constitutional legal basis that we would
6 wait and act on official figures.

7 THE CHAIRMAN: Are you ready for the question?

8 The Clerk will ring the quorum bell.

9 The question arises on the adoption of Amendment
10 No. 6.

11 A vote Aye is a vote in favor of the amendment;
12 a vote No is a vote against.

13 Cast your vote.

14 Has every delegate voted?

15 Does any delegate desire to change his vote?

16 The Clerk will record the vote.

17 There being forty-nine votes in the affirmative
18 and seventy in the negative, the motion is lost and the
19 amendment is rejected.

20 Delegate Boyer, I take it that you do not now
21 desire to offer your Amendment B.

1 DELEGATE BOYER: If I may, I would first like
2 to rise on a point of personal privilege.

3 THE CHAIRMAN: State the privilege.

4 DELEGATE BOYER: We have been concerned for
5 some time about the Chairman of the Committee on Legislative
6 Branch, about his "sight and visibility", and I wonder if
7 it would be appropriate to pass Delegate Gallagher a little
8 present to aid him.

9 THE CHAIRMAN: Do you desire him to open it?

10 DELEGATE BOYER: Yes, I wish he would, sir.

11 (Delegate Gallagher was presented with a pair of
12 binoculars.)

13 THE CHAIRMAN: Delegate Gallagher.

14 DELEGATE GALLAGHER: The better to see you with.
15 Thank you.

16 THE CHAIRMAN: Delegate Boyer.

17 DELEGATE BOYER: We have a backup gift in case
18 he should lose that. It has been suggested so he can see
19 small counties.

20 (Delegate Gallagher was presented with a tele-
21 scope.)

1 THE CHAIRMAN: Is that also for single districts?

2 DELEGATE BOYER: Yes, single members, one eye.

3 THE CHAIRMAN: Delegate Gallagher.

4 DELEGATE GALLAGHER: At long last I got one "Aye"
5 out of Mr. Boyer. It took a long time.

6 THE CHAIRMAN: Delegate Boyer.

7 DELEGATE BOYER: May it never happen again.

8 Mr. Chairman, as a last parting shot, we hope
9 this might encourage him to seek like Diogenes a little
10 light at certain times of the day and we give these gifts
11 with great respect and admiration for Delegate Gallagher.

12 (Delegate Gallagher was presented with a flash-
13 light.)

14 THE CHAIRMAN: Now, Delegate Boyer, I assume you
15 do not wish to offer Amendment B.

16 DELEGATE BOYER: Oh, yes, that again.

17 I think, Mr. Chairman, that to conserve the
18 time of the Convention, I think we would withdraw Amendment
19 B at this time. (Applause)

20 THE CHAIRMAN: Thank you very much.

21 Delegate Gallagher, do you desire to offer --

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1 DELEGATE GALLAGHER: Not on your life. You will
2 find that Mr. Boyer has an identical amendment which I
3 believe he will be only too happy to offer.

4 THE CHAIRMAN: You desire to withdraw both of
5 them.

6 DELEGATE GALLAGHER: Yes, H and O. I cannot
7 withdraw S, but I withdraw mine.

8 THE CHAIRMAN: You do not desire to offer Amend-
9 ment O, Delegate Boyer?

10 DELEGATE BOYER: May I have a minute recess?

11 THE CHAIRMAN: The Chair has no other amendments
12 to Section 7 or 8.

13 Are there any other amendments?

14 Delegate Raley.

15 DELEGATE RALEY: Mr. Chairman and Members of
16 the Convention, point of personal privilege.

17 THE CHAIRMAN: State the privilege.

18 DELEGATE RALEY: There is in the balcony in the
19 rear a member of the House of Delegates from St. Mary's
20 County, Delegate Briscoe, and his law partner, Mr. James
21 Kenney, from St. Mary's County. (Applause)

1 THE CHAIRMAN: The Chair has no other amendments
2 to Section 7 or 8.

3 Are there any other amendments?

4 The Chair hears none.

5 Proceed now to a consideration of Article 9.

6 Are there any amendments to Section 9?

7 Section 10, 11, 12, 13, 14, 15 -- that concludes
8 consideration of the schedule of transitional provisions.
9 Division has been called for. Schedule of transitional
10 provisions is divided from the schedule of legislation.

11 The question now arises on the adoption of
12 Committee Recommendation GP-13 to the extent that it encom-
13 passes the schedule of transitional provisions comprising
14 the first fourteen pages.

15 Are you ready for the question?

16 Delegate Rybczynski.

17 DELEGATE RYBCZYNSKI: I conferred very early in
18 the day with Mr. Benson about the Orphans' Court. While you
19 were out of the room this morning I asked the question of
20 Delegate Hardwicke as to just what was going to happen to
21 the powers and duties of the Orphans' Court and the answer

1 was that it was going to be hanging in limbo until the
2 General Assembly got to it and I thoguht it was our
3 clear understanding that this was going to go to the
4 Superior Court and for that reason I thought the amendment
5 was prepared by now.

6 THE CHAIRMAN: That would be an amendment to
7 the schedule of legislation rather than to the schedule of
8 transitional provisions, would it not?

9 DELEGATE RYBCZYNSKI: No, sir. I want to make
10 it clear I am not talking about the personnel. I am talking
11 about duties and powers.

12 Could you hold this open for a minute and I
13 will go check down the hall?

14 THE CHAIRMAN: Yes, but let me understand some-
15 thing before you leave, Delegate Rybczynski. In the sched-
16 ule of transitional provision, on page 5, I assume you are
17 referring to Section 15 which provides that the judicial
18 power vested in the Orphans' Court as of June 30, 1968,
19 shall continue until January 1, 1971.

20 I take it that your question was directed to
21 the problem of what disposition should be made of the

1 jurisdiction conferred now upon the Orphans' Court
2 effective after January, 1971.

3 Delegate Rybczynski.

4 DELEGATE RYBCZYNSKI: That is correct.

5 THE CHAIRMAN: That would be a matter of legisla-
6 tion under the new judicial article. Since there would no
7 longer be an Orphans' Court, the question of jurisdiction
8 being vested in the district court would be a matter of
9 legislation. It is not in this schedule on the theory
10 that the Legislature has ample time between now and 1971
11 to decide where to vest that jurisdiction.

12 My fear and the fear of many of the delegates
13 to whom I have spoken is that there might be some idea to
14 put all of this in the district court and we would dread
15 having something like this happen, but we still could not
16 control it.

17 Under the sections adopted with respect to the
18 Judicial Branch, the jurisdiction of the respective courts
19 is to be determined by the General Assembly.

20 Delegate Rybczynski.

21 DELEGATE RYBCZYNSKI: Please, sir, there is a

1. The first part of the paper is devoted to the study of the properties of the function $f(x)$ defined by the equation $f(x) = \sum_{n=0}^{\infty} \frac{1}{n!} x^n$. It is shown that $f(x)$ is a continuous function of x and that it satisfies the differential equation $f'(x) = f(x)$. The function $f(x)$ is also shown to be the unique solution of this equation which is equal to 1 at $x=0$.
2. In the second part of the paper, the properties of the function $f(x)$ are used to study the properties of the function $g(x)$ defined by the equation $g(x) = \sum_{n=0}^{\infty} \frac{1}{n!} x^n$. It is shown that $g(x)$ is a continuous function of x and that it satisfies the differential equation $g'(x) = g(x)$. The function $g(x)$ is also shown to be the unique solution of this equation which is equal to 1 at $x=0$.
3. In the third part of the paper, the properties of the function $f(x)$ are used to study the properties of the function $h(x)$ defined by the equation $h(x) = \sum_{n=0}^{\infty} \frac{1}{n!} x^n$. It is shown that $h(x)$ is a continuous function of x and that it satisfies the differential equation $h'(x) = h(x)$. The function $h(x)$ is also shown to be the unique solution of this equation which is equal to 1 at $x=0$.
4. In the fourth part of the paper, the properties of the function $f(x)$ are used to study the properties of the function $i(x)$ defined by the equation $i(x) = \sum_{n=0}^{\infty} \frac{1}{n!} x^n$. It is shown that $i(x)$ is a continuous function of x and that it satisfies the differential equation $i'(x) = i(x)$. The function $i(x)$ is also shown to be the unique solution of this equation which is equal to 1 at $x=0$.
5. In the fifth part of the paper, the properties of the function $f(x)$ are used to study the properties of the function $j(x)$ defined by the equation $j(x) = \sum_{n=0}^{\infty} \frac{1}{n!} x^n$. It is shown that $j(x)$ is a continuous function of x and that it satisfies the differential equation $j'(x) = j(x)$. The function $j(x)$ is also shown to be the unique solution of this equation which is equal to 1 at $x=0$.
6. In the sixth part of the paper, the properties of the function $f(x)$ are used to study the properties of the function $k(x)$ defined by the equation $k(x) = \sum_{n=0}^{\infty} \frac{1}{n!} x^n$. It is shown that $k(x)$ is a continuous function of x and that it satisfies the differential equation $k'(x) = k(x)$. The function $k(x)$ is also shown to be the unique solution of this equation which is equal to 1 at $x=0$.
7. In the seventh part of the paper, the properties of the function $f(x)$ are used to study the properties of the function $l(x)$ defined by the equation $l(x) = \sum_{n=0}^{\infty} \frac{1}{n!} x^n$. It is shown that $l(x)$ is a continuous function of x and that it satisfies the differential equation $l'(x) = l(x)$. The function $l(x)$ is also shown to be the unique solution of this equation which is equal to 1 at $x=0$.
8. In the eighth part of the paper, the properties of the function $f(x)$ are used to study the properties of the function $m(x)$ defined by the equation $m(x) = \sum_{n=0}^{\infty} \frac{1}{n!} x^n$. It is shown that $m(x)$ is a continuous function of x and that it satisfies the differential equation $m'(x) = m(x)$. The function $m(x)$ is also shown to be the unique solution of this equation which is equal to 1 at $x=0$.
9. In the ninth part of the paper, the properties of the function $f(x)$ are used to study the properties of the function $n(x)$ defined by the equation $n(x) = \sum_{n=0}^{\infty} \frac{1}{n!} x^n$. It is shown that $n(x)$ is a continuous function of x and that it satisfies the differential equation $n'(x) = n(x)$. The function $n(x)$ is also shown to be the unique solution of this equation which is equal to 1 at $x=0$.
10. In the tenth part of the paper, the properties of the function $f(x)$ are used to study the properties of the function $o(x)$ defined by the equation $o(x) = \sum_{n=0}^{\infty} \frac{1}{n!} x^n$. It is shown that $o(x)$ is a continuous function of x and that it satisfies the differential equation $o'(x) = o(x)$. The function $o(x)$ is also shown to be the unique solution of this equation which is equal to 1 at $x=0$.

1 section which provides that all of the duties now in the
2 Supreme Bench, Baltimore City, Court of Common Pleas, and
3 the city courts will go --

4 THE CHAIRMAN: That is in the legislation.

5 DELEGATE RYBCZYNSKI: Then you haven't seen the
6 ones on legislation.

7 THE CHAIRMAN: I will look now and see. I do
8 not have an amendment sponsored by you with respect to the
9 schedule of legislation.

10 Delegate Fornos.

11 DELEGATE FORNOS: Mr. Chairman, I ask that
12 Section 30 be divided out and held over until the amendment
13 that we are working on can be presented.

14 THE CHAIRMAN: Very well. The question is further
15 divided so as to separate Section 30 of the schedule of
16 transitional provisions from consideration with the
17 remainder of that schedule.

18 Delegate Fornos, I have not seen the amendment.
19 I am assuming in the light of your request the amendment
20 will not effect the divisibility of the section. The
21 amendment does not touch upon any other section of the

1. The first of these is the fact that the United States is a large country, and that the population is distributed over a large area. This is a fact which is of great importance in the study of the history of the United States, and it is one of the factors which have contributed to the development of the country.	1
2. The second of these is the fact that the United States is a young country, and that the population is still in the process of growth. This is a fact which is of great importance in the study of the history of the United States, and it is one of the factors which have contributed to the development of the country.	2
3. The third of these is the fact that the United States is a country of great natural resources, and that the population is still in the process of development. This is a fact which is of great importance in the study of the history of the United States, and it is one of the factors which have contributed to the development of the country.	3
4. The fourth of these is the fact that the United States is a country of great political freedom, and that the population is still in the process of development. This is a fact which is of great importance in the study of the history of the United States, and it is one of the factors which have contributed to the development of the country.	4
5. The fifth of these is the fact that the United States is a country of great economic freedom, and that the population is still in the process of development. This is a fact which is of great importance in the study of the history of the United States, and it is one of the factors which have contributed to the development of the country.	5
6. The sixth of these is the fact that the United States is a country of great social freedom, and that the population is still in the process of development. This is a fact which is of great importance in the study of the history of the United States, and it is one of the factors which have contributed to the development of the country.	6
7. The seventh of these is the fact that the United States is a country of great cultural freedom, and that the population is still in the process of development. This is a fact which is of great importance in the study of the history of the United States, and it is one of the factors which have contributed to the development of the country.	7
8. The eighth of these is the fact that the United States is a country of great scientific freedom, and that the population is still in the process of development. This is a fact which is of great importance in the study of the history of the United States, and it is one of the factors which have contributed to the development of the country.	8
9. The ninth of these is the fact that the United States is a country of great artistic freedom, and that the population is still in the process of development. This is a fact which is of great importance in the study of the history of the United States, and it is one of the factors which have contributed to the development of the country.	9
10. The tenth of these is the fact that the United States is a country of great religious freedom, and that the population is still in the process of development. This is a fact which is of great importance in the study of the history of the United States, and it is one of the factors which have contributed to the development of the country.	10

1 transitional provisions.

2 DELEGATE FORNOS: No, sir, it does not.

3 THE CHAIRMAN: The question is divided so that
4 the question now arises on the adoption of the schedule of
5 transitional provisions including the introductory paragraph
6 on page 1, but not including Section 30.

7 Is there any further discussion?

8 Are you ready for the question?

9 The Clerk will ring the quorum bell.

10 The question arises on the approval of the
11 schedule of transitional provisions comprising the intro-
12 ductory paragraphs on page 1 and Sections 1 to 42 inclusive
13 omitting Section 30.

14 A vote Aye is a vote in favor of the approval of
15 these sections; a vote No is a vote against.

16 Cast your vote.

17 Has every delegate voted?

18 Does any delegate desire to change his vote?

19 The Clerk will record the vote.

20 There being 102 votes in the affirmative and five
21 in the negative, the motion is carried. The schedule is

1 carried.

2 We will pass over Section 30 of the schedule of
3 transitional provisions and proceed to a consideration of
4 the schedule of legislation. This begins on page 15 of
5 the blue copy.

6 Are there any amendments with respect to the
7 introductory paragraph beginning on page 3 of page 15?

8 The Chair hears none.

9 Any amendments to Section 1, Section 2, Section 3?

10 My attention is called to another typographical
11 error on line 26, page 15. Please check the spelling of
12 "suffrage."

13 Amendments to Section 2, Section 3, Section 4,
14 Section 5, Section 6, Section 7, Section 8?

15 Delegate Fornos, do you desire to offer your
16 Amendment G?

17

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21

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1 DELEGATE FORNOS: I do, Mr. Chairman.

2 THE CHAIRMAN: The pages will please distribute
3 the Amendment "G".

4 This will be Amendment 7.

5 The Clerk will read the amendment.

6 MR. QUILLEN: Amendment No. 7 to Committee
7 Recommendation No. GP-13 by Delegate Fornos:

8 On page 18 Section 8. Salary of Governor in
9 line 40 strike out the words: "Forty Thousand Dollars"
10 and insert in lieu thereof the following words: "Twenty-
11 Five Thousand Dollars".

1 THE CHAIRMAN: The amendment is submitted by
2 Delegate Fornos. Is there a second? Who seconds?

3 DELEGATE RUSH: Second.

4 THE CHAIRMAN: Delegate Rush seconds.

5 The Chair recognizes Delegate Fornos.

6 DELEGATE FORNOS: Mr. Chairman and Fellow Dele-
7 gates, since we have heard repeatedly in the explanation of
8 the legislative passage accompanying this Constitution that
9 the General Assembly hereafter will have the right to amend
10 that package and put whatever figure it wants to, I feel
11 that it would be detrimental to the welfare of the entire
12 Constitution for us to get involved in a salary dispute,
13 especially in view of the fact that on November 8, 1966,
14 the people of Maryland by a narrow vote of 20,000 majority
15 voted an increase in the salary of the Governor from
16 fifteen to twenty-five thousand. I do so because of three
17 reasons which I feel are pertinent to the question.

18 A, on April 15, the people of this State will be
19 confronted with having to go in many cases and borrow large
20 sums of money to pay for the recent tax increase confronting
21 the State especially in view of the fact that the tax was

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1 not retroactive. It was retroactive in effect, but not
2 retroactive in deductions, and I submit that many of our
3 people including some of our rich members are going to have
4 to find large sums of money to pay their tax bills.

5 Furthermore, we are confronted with an imminent
6 Federal tax increase and with the great competition for the
7 tax dollar, I feel that nothing will more infuriate the
8 people of this State than to think that this Constitutional
9 Convention was nothing more than a salary grab.

10 I can see the justification not because of my
11 own personal interest in it, but for the increase in the
12 legislative salary because I feel that it is a modest
13 increase. It is raising the level of legislators where
14 most people in the State feel they ought to be, but when you
15 raise the judicial salaries and the executive salaries I
16 can see very bad omens on the horizons and I feel that we
17 have accomplished much too much good to have ~~the~~ Constitution
18 fall on the pocketbook issue.

19 I would like to point out to you that Allegany
20 County voted overwhelmingly against the tax increase,
21 Calvert County, Baltimore, Carroll County, Dorchester

1 County, Garrett County, Harwood County, Kent County,
2 Queen Annes, Somerset, and all **though** some of those sound
3 like small communities so did Baltimore City by a few
4 thousand majority.

5 At a time we are going to have a low turnout
6 don't let the wonderful document we have drafted hang up
7 on a pocketbook issue. Many of you will argue we have to
8 pay realistic salaries. You are giving the Legislature
9 the right to set the salary of public officials hereafter.
10 Don't confuse the issue over something which can best be
11 emotional and does not affect the pocketbook of the
12 incumbent Governor.

13 THE CHAIRMAN: Delegate Morgan, do you wish to
14 respond on behalf of the Committee?

15 DELEGATE MORGAN: Mr. Chairman, I think the
16 Governor should be the highest paid man in the State, and
17 when the judges of the Court of Appeals get \$35,000, I
18 think that the Governor of the State ought to get at least
19 \$40,000. I really think he ought to get more than forty
20 thousand dollars, but it just seems to me that \$40,000 is
21 a very reasonable salary for the Governor and if the people

1 of Maryland are going to turn down this Constitution on the
2 \$40,000 salary of the Governor, why then I don't think that
3 the people have very much confidence in the electorate of
4 Maryland. I am all in favor of the \$40,000 figure and I
5 hope this amendment is defeated.

6 THE CHAIRMAN: Any other delegate desire to
7 speak in favor of the amendment?

8 Delegate Mitchell.

9 DELEGATE MITCHELL: Mr. President and Fellow
10 Delegates, I think it would be shameful to set up a new
11 structure for a strong Executive Branch of Government and
12 improved Judicial Branch and a strong Legislative Branch
13 and not face the hard question that in Maryland we have
14 paid our public servants such ridiculously low salaries
15 that we have opened wide the doors to corruption and it is
16 as simple as that and we must give leadership to the
17 people of the State if we want clean government as well as
18 efficient government, we have got to pay our public
19 servants according to the jobs which we expect them to
20 perform.

21 Further, as far as the salary to the Chief

1 Executive of the State, if we don't pay a decent salary then
2 we are going to discourage men of modest means with
3 superior ability from running for public office and I
4 think it is a disgrace to now say that after we have spent
5 all of these months and weeks in devising a new structure
6 to improve the efficiency of Government to cut down the
7 salaries so that we leave to the next generation the doors
8 open for the corruption we want to clean up is a disgrace
9 and I think we own the State leadership. We have all been
10 elected to this Convention on non-partisan and non-political
11 grounds and it is our responsibility from that standpoint
12 to give leadership to the citizens and the voters of the
13 State.

14 I hope we will vote down this amendment and begin
15 to pay the public servants of Maryland the kind of salaries
16 so that they won't have to go outside of their office in
17 order to exist.

18 THE CHAIRMAN: Are you ready for the question?

19 Delegate Boyles.

20 DELEGATE BOYLES: Thank you, Mr. President. I
21 will say just a few words. I oppose this amendment and

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1 speaking for myself and the five other members of my family
2 I will be glad to contribute the extra three cents in tax
3 dollars the six of us will have to contribute to pay this
4 extra fifteen thousand dollars. Thank you.

5 THE CHAIRMAN: Delegate Hardwicke.

6 DELEGATE HARDWICKE: There are certain transi-
7 tional reasons that we need to put this amount in here and
8 that is the constitutional prohibition of raising or chang-
9 ing the salary of an incumbent when he is in office.
10 Unless we do it this way, it would be very difficult for
11 the Legislature to do it at all with regard to the incumbent.

12 Secondly, I think we occupy a peculiar position
13 with regard to the people of the State of Maryland. We
14 are more or less their direct representation. It is easier
15 and more non-political for us to take care of this matter
16 than it is for the Legislature to attempt to do it.

17 For that reason I think the amendment should be
18 voted down.

19 THE CHAIRMAN: Delegate Kathleen Robie.

20 DELEGATE ROBIE: Mr. President and Ladies and
21 Gentlemen: I will not belabor this issue, but I would like
to point out that I don't believe the man in the street

1 would be able to see the sense of us putting forth a
2 document giving the judges, the highest judge, thirty-five
3 thousand and our Governor twenty-five. I urge you to pay
4 the Governor \$40,000.

5 THE CHAIRMAN: Are you ready for the question?

6 The Clerk will ring the quorum bell.

7 The question arises on the adoption of Amendment
8 No. 7. A vote Aye is a vote in favor of the amendment; a
9 vote No is a vote agianst.

10 Cast your vote.

11 Has every delegate voted?

12 Does any delegate desire to change his vote?

13 The Clerk will record the vote.

14 There being twelve votes in the affirmative
15 and ninety-two in the negative, the motion is lost and the
16 amendment is rejected.

17 Are there any further amendments to Section 8?

18 Section 9?

19 Section 10?

20 Section 11?

21 Section 12?

1 Section 13?

2 Section 14?

3 Delegate Gleason, do you desire to offer your
4 Amendment U?

5 DELEGATE GLEASON: Yes, I do.

6 THE CHAIRMAN: Pages will please distribute
7 Amendment U, U for Uncle.

8 This will be Amendment No. 8.

9 The Clerk will read the amendment.

10 MR. QUILLEN: Amendment No. 8 to Committee
11 Recommendation No. GP-13 by Delegate Gleason:

12 On pages 19 and 20 strike out all of Section 14.
13 Board of Public Works and Board of Review comprising all of
14 lines 44 through 50, inclusive, on page 19 and all of lines
15 1 through 10, inclusive, on page 20.

16 THE CHAIRMAN: The amendment is submitted by
17 Delegate Gleason.

18 Is there a second?

19 (Whereupon, there was a second.)

20 THE CHAIRMAN: Delegate Sollins seconds.

21 The Chair recognizes Delegate Gleason.

1 DELEGATE GLEASON: Mr. Chairman and Fellow
2 Delegates, the schedule of legislation as it has been
3 explained to all of us is supposed to contain provisions
4 falling into two categories.

5 The first category **reading from** the memorandum
6 of the Committee are those provisions which are included
7 in prior Constitutions, but not fully implemented by
8 legislation which this Convention is determined not to in-
9 clude in this Constitution because they are not matters
10 which should properly be dealt with or because they are
11 matters which should properly be dealt with by the General
12 Assembly.

13 And secondly, items of legislation necessary to
14 implement the provisions of the new Constitution which
15 items are of a nature so essential that in the opinion of
16 the Convention their enactment cannot await the action of
17 The General Assembly and we have seen during the debate
18 today a number of such instances.

19 Here we are dealing with a provision whereby the
20 effect of our constitutional change we abolish the Board
21 of Public Works but under the section of the change that we

1 have just adopted, transitional provisions, that Board does
2 not go out of existence until January the sixth, 1971.

3 Now, that provides the legislative year of 1968,
4 1969, 1970 for something to be done with respect to what
5 we have provided in the Constitution and that is to estab-
6 lish a Board of Review.

7 Under Section 4.24 of the executive article we
8 provide a Board of Review. We provide who its members shall
9 be and then we state that the Board shall act in such
10 manner and have such powers as the General Assembly may
11 prescribe by law. So we leave it to the General Assembly
12 to prescribe the powers that the new Board of Review is to
13 have.

14 Now, let us take a look at what the transitional
15 legislation is.

16 Section 14 states the following: Upon the
17 termination of the legal existence of the Board of Public
18 Works". Now, that as I recalled to you before is January 6,
19 1971, all of its powers, all of the powers and duties of the
20 Board of Public Works shall be vested in the Board of Review
21 so by this legislation we are transferring to the Board of

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1 Review all of the powers that are existing in the present
2 Board of Public Works despite the fact that the constitu-
3 tional provision states that that Board of Review shall
4 have such powers as the General Assembly shall prescribe
5 by law.

6 Now, it has been explained to me that the reason
7 that this deviates from what this transitional legisla-
8 tion is supposed to be in this connection, the reason for
9 it is that the Board of Public Works has such great powers
10 particularly in the bond field that if there is any chance
11 that the General Assembly would not act to grant these
12 powers to the Board of Review when it is created, why then
13 our financial situation would be chaotic to say the least
14 and I would agree with him, but when we have three legisla-
15 tive sessions by which the General Assembly can act, it
16 seems to me that this fear is almost like building a
17 scarecrow to tear down because obviously the General
18 Assembly has to act responsibly in a number of areas, day
19 in and day out. They have to pass appropriations; they do
20 it. If they didn't do it, chaos would result so what I
21 want to do is to bring to everybody's attention that here is

1 an instance where you have a transfer of power to a new
2 board which is not justified by the definition of what
3 transitional legislation should be. It is not in the
4 criteria. It is outside of it. Somebody may raise the
5 question, well, since the Board is to have such powers as
6 the General Assembly is going to prescribe, what is wrong
7 with transferring it in this transitional legislation and
8 then June or July the first, 1968, if they want to change
9 it, let them change it.

10 The difference is that in order to get a real
11 change they would have to, if these powers are to be trans-
12 ferred, they would have to get a law approved by the
13 Governor and if the Governor decided to veto that change,
14 they would have to have the votes to override the veto.
15 This is a different matter from carrying out what is in the
16 Constitution.

17 THE CHAIRMAN: Delegate Morgan.

18 DELEGATE MORGAN: Mr. Chairman, there is no
19 question but what the Board of Public Works has a great
20 deal of very insignificant duties.

21 If you look at the agenda of the Board of Public

1 Works you will find the most insignificant items on it such
2 as whether the volunteer fire department of Annapolis,
3 Maryland, shall be granted the use of some ground for its
4 annual picnic, and I certainly agree with Delegate Gleason
5 that the General Assembly ought to look very carefully at
6 the powers that have been given to the Board of Public
7 Works which are transferred to the Board of Review.

8 That was brought out in the debate on the
9 executive article when the executive article was on the
10 floor and I am heartily in favor of the General Assembly
11 going into the powers they have given to the Board of
12 Public Works very, very carefully, but I really think it
13 would be a chaotic condition if we did not transfer to the
14 new Board of Review all of the existing powers of the
15 Board of Public Works and give the General Assembly time to
16 review all of the powers that the Board of Public Works
17 has had and which ones are important and which ones are
18 unimportant, which ones should be exercised and which
19 ones should not be exercised.

20 I hope this amendment is defeated, Mr. Chairman.

21 THE CHAIRMAN: Delegate Sherbow.

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1 DELEGATE SHERBOW: I hope this amendment is
2 defeated. There is one place where really we ought to
3 tread so lightly and so carefully and know what we are
4 doing and this is in the field where the State's credit
5 and the State's bond issues already outstanding and yet to
6 be created are concerned.

7 Now, we have already approved by Section 14 that
8 the rights, powers, and duties of the Board of Public
9 Works continue as so vested until January 6, 1971, but if
10 we do not pass this present new Section 14 transferred all
11 of the powers of the Board of Public Works to the Board of
12 Review, we are really heading and I adopt Delegate Adkins
13 and Delegate Morgan's words, a chaotic situation.

14 Let me give you just one example. Every year
15 the Board of Public Works must set the real estate tax of
16 Maryland based on statutes already passed dealing with
17 bond issues already outstanding. It is easy to say, of
18 course, the Legislature is going to act, but just suppose
19 there is an error, just suppose they do not act. You know
20 you can't ever get back a credit that you have established
21 that you slip up on.

CHAPTER I

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1 Now, I understand Delegate Gleason's motive
2 and I understand the problem that concerns him. I am sure
3 that he would much rather have the Legislature since it is
4 vested with this power able to act without the possibility
5 of veto by the Governor, but there hasn't been anything that
6 we have said or done in this Constitution; when we say as
7 prescribed by law that doesn't mean a statute which the
8 Governor may veto. You can't do this by a concurrent
9 resolution of both houses of the Legislature. We are
10 asking for trouble. We are dealing with something where
11 dotting of I's and crossing of T's is terribly important
12 and when the staff got together this Section 14 and worked
13 it out as carefully as they did, it was in order to
14 establish that the rights and duties moved from the Board
15 of Public Works to the new Board of Review, but the Legis-
16 lature has a perfect right to take from the Board of Public
17 Review and it should those uninteresting, unimportant
18 duties that Delegate Morgan referred to.

19 In the interest of a tidy document, in the
20 interest of a document that is well thought out, carefully
21 designed, and that it is a mosaic that ought not to be

1 broken up, I ask you to defeat this amendment.

2 THE CHAIRMAN: Any other discussion?

3 Are you ready for the question?

4 The Clerk will ring the quorum bell.

5 The question arises on the adoption of Amendment
6 No. 8.

7 A vote Aye is a vote in favor of the amendment;
8 a vote No is a vote against.

9 Cast your vote.

10 Has every delegate voted?

11 Does any delegate desire to change his vote?

12 The Clerk will record the vote.

13 There being twenty-five votes in the affirmative
14 and sixty-nine in the negative, the motion is lost and the
15 amendment is rejected.

16 Any other amendments to Section 14?

17 Section 15?

18 Section 16?

19 Section 17?

20 Section 18?

21 Section 19?

1 Section 20?

2 Section 21?

3 Is your amendment here?

4 DELEGATE FORNOS: It covered Sections 21, 22,
5 and 23. It has gone to the print shop.

6 THE CHAIRMAN: We will pass.

7 Section 22.

8 Delegate Gill, do you desire to offer your
9 amendment N?

10 DELEGATE GILL: Yes, I do. So you have Amendment
11 N?

12 THE CHAIRMAN: Yes, I have Amendment N.

13 DELEGATE GILL: It has another number now,
14 another letter now.

15 THE CHAIRMAN: I have another amendment sponsored
16 by you and Delegate Lloyd Taylor together.

17 DELEGATE GILL: That is to take the place of N.

18 THE CHAIRMAN: You do not offer N?

19 DELEGATE GILL: No.

20 THE CHAIRMAN: You do offer W?

21 DELEGATE GILL: Hold it, then.

1 THE CHAIRMAN: What do you mean by hold it?

2 DELEGATE GILL: Hold it until after the Willoner
3 and Fornos amendments.

4 THE CHAIRMAN: Delegate Fornos, do you have a
5 copy of your amendment?

6 DELEGATE FORNOS: Delegate Hardwicke does.

7 THE CHAIRMAN: Delegate Rybczynski, do you desire
8 to offer your amendment T?

9 DELEGATE RYBCZYNSKI: I understand, Mr. Chairman,
10 that there is a similar amendment prepared by a female
11 member of this Convention and frankly I would appreciate
12 voting for her amendment if it is the same as mine.

13 THE CHAIRMAN: What amendment is it, do you know?

14 DELEGATE RYBCZYNSKI: Mrs. Gill's.

15 THE CHAIRMAN: Do you desire to withdraw your
16 amendment? The amendment is not the same.

17 DELEGATE RYBCZYNSKI: We will go on with the
18 business of the Convention. I will offer mine.

19 THE CHAIRMAN: Amendment T. Pages will please
20 distribute the Amendment T.

21 Delegate Rybczynski, the Chair has seen a carbon

1 copy of the amendments that Delegate Fornos proposes to
2 offer. They are quite extensive. I am told -- I cannot
3 tell this myself -- that they would make your amendment
4 unnecessary and also Delegate Gill's. Under the circum-
5 stances, I don't want to go through needless motions. Can
6 we pass over yours for a moment?

7 DELEGATE RYBCZYNSKI: I will step aside particu-
8 larly since it might mean I won't have to move to Garrett
9 County after all.

10 THE CHAIRMAN: I take it any other amendments to
11 Sections 21, 22, and 23 should be passed over because of
12 the amendment proposed by Delegate Fornos.

13 Delegate Mudd, do you desire to offer your
14 amendment Y?

15 DELEGATE MUDD: Yes, Mr. Chairman.

16 THE CHAIRMAN: Amendment Y is not yet printed.

17 Delegate Pullen, do you desire to be recognized?

18 DELEGATE PULLEN: Mr. Chairman, I was going to
19 ask the question in the lull of no business, but if the
20 answer takes longer than ten seconds, don't bother.

21 I have been dealing with alphabets all my life

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1 and I am curious to know what is this system of lettering
2 our amendments? Ten seconds only, sir.

3 THE CHAIRMAN: The answer is very clear. The
4 chief page says "It is my system". That is Mrs. Marx's
5 system. She says do you desire to have her explain it?

6 DELEGATE PULLEN: It will be a pleasure.

7 THE CHAIRMAN: Delegate E. Churchill Murray.

8 DELEGATE E. CHURCHILL MURRAY: In the lull, while
9 waiting for this amendment --

10 THE CHAIRMAN: Well, we are not going to wait all
11 that time. Go ahead.

12 DELEGATE E. CHURCHILL MURRAY: This is informa-
13 tion that I think the Convention shou=d have, but perhaps
14 you would rather I should wait until a more appropriate
15 moment.

16 THE CHAIRMAN: No, go right ahead.

17 DELEGATE E. CHURCHILL MURRAY: It seems to me
18 it is the only thing while we are discussing judges, hudgets'
19 salaries and how they make out on their salary, you might
20 want to know the experience of a judge in Anne Arundel
21 County. It was before the salaries had been raised to the
point that they are at now or are now at, I don't know, but

1 in any event, this truly happened. A judge here was
2 supporting his daughter, his grandchild, and he was having
3 a pretty tough time.

4 However, he tried to keep his home in order
5 and his yard in order. He had a man come and cut the yard
6 for him.

7 When the man had cut the yard and he went to
8 pay him, the judge just didn't have any money and I said
9 to him, "John, I will see that you are paid".

10 Well, John waited two or three weeks, had not
11 been paid, returned and the judge said: "John, I haven't
12 any money, but I will see that you are paid. If I live I
13 will pay you. If I don't, I will see that you are paid.
14 And the old fellow said, "Deed, Judge, you know sensible
15 well I ain't going to have time go hunting all over hell
16 for you." (Laughter)

17 THE CHAIRMAN: That was well worth the time,
18 Delegate Murray.

19 Delegate White.

20 DELEGATE WHITE: I wonder if the Honorable
21 Murray will yield to a question.

1 THE CHAIRMAN: Delegate Murray, do you yield?

2 DELEGATE E. CHURCHILL MURRAY: Yes.

3 THE CHAIRMAN: Delegate White.

4 DELEGATE WHITE: Delegate Murray, could you tell
5 me the racial identity of that employee? (Laughter)

6 DELEGATE E. CHURCHILL MURRAY: I feel sure that
7 the judge was pure Anglo-Saxon.

8 I also feel sure that his friend who had cut
9 the yard for him was of that race who afford so much wit,
10 so much humor, so much music to all of Maryland without
11 which I don't know what on earth we would do. (Applause)

12 THE CHAIRMAN: Delegate White.

13 DELEGATE WHITE: Delegate Murray, if you could
14 answer one more question, I could draw my own conclusions.
15 Could he cook? (Laughter)

16 THE CHAIRMAN: Delegate James.

17 DELEGATE JAMES: This is a bit of frivolity for
18 which legislators are very severely criticized. (Laughter)

19 THE CHAIRMAN: Delegate Pullen, you started all
20 of this. Do you want to finish it?

21 DELEGATE PULLEN: Mr. Chairman, Mrs. Marx has

1 kindly walked up and offered to give an explanation. I am
2 disturbed that she hasn't had her say. I think we could
3 conclude this and get back to business.

4 THE CHAIRMAN: Go ahead, Mrs. Marx.

5 MRS. MARX: How many seconds do I have?

6 If any of you delegates have ever walked into
7 the back room and seen eighty-six amendments and walked
8 back in here and had someone said I called for such and
9 such an amendment. It is to Section zero-zero and point
10 such and such, and then I have to go in and start reading
11 them from the top down to the bottom and it got tough, so
12 I went from A to Z and when you got terrible, I went from
13 AZ and BZ and so on and so forth, so that is how we started
14 this lettering system. (Applause)

15 THE CHAIRMAN: That, I may add, is one of the
16 reasons why the page system works so well because of Mrs.
17 Marx. (Applause)

18 THE CHAIRMAN: Delegate Mudd's amendment which
19 is not printed would change the date July 1, 1968, in line
20 49 on page 25 to June 30, 1968.

21 Is there any objection to considering the



1 amendment even though not printed?

2 The Chair hears none.

3 This will be Amendment No. 9.

4 The Clerk will read the amendment.

5 MR. QUILLEN: Amendment No. 9 to Committee
6 Recommendation No. GP-13 by Delegate Mudd:

7 On page 25 Section 24. Pension of Former Judges
8 in line 49 strike out the following: "July 1" and insert
9 in lieu thereof the following: "June 30".

10 THE CHAIRMAN: The amendment is submitted by
11 Delegate Mudd.

12 The amendment is seconded.

13 The Chair recognizes Delegate Mudd.

14 DELEGATE MUDD: Mr. Chairman and Fellow Delegates,
15 the purpose of this amendment is purely technical to key
16 the date to the effective date before the effective date
17 of the new Constitution and to provide for these pensions
18 of former judges to be geared to the last day before the
19 enactment or the effective date of the new Constitution
20 and I would appreciate your support of this amendment.

21 THE CHAIRMAN: Any discussion?

1 Are you ready for the question?

2 The Clerk will ring the quorum bell.

3 The question arises on the adoption of Amendment
4 No. 9. A vote Aye is a vote in favor of the amendment;
5 a vote No is a vote against.

6 Cast your vote.

7 Has every delegate voted?

8 Does any delegate desire to change his vote?

9 The Clerk will record the vote.

10 There being eighty-five votes in the affirmative
11 and none in the negative, the motion is carried. The
12 amendment is adopted.

13 Delegate Rybcznski, do you desire to offer
14 your amendment S to Section 24?

15 DELEGATE RYBCZYNSKI: You told me that the
16 amendment as to spouse would not be necessary if the
17 Fornos amendments were adopted.

18 THE CHAIRMAN: It does not go to Section 24.
19 Do you want to pass it until you see the Fornos amendments?

20 DELEGATE RYBCZYNSKI: Yes, sir.

21 THE CHAIRMAN: Very well.

1 The amendments to Section 25, 26, 27, 28, 29,
2 there are several amendments to Section 30.

3 Delegate Clagett, you are the leading sponsor
4 on two amendments. Are they designed as alternates, C and E,
5 and on Amendment C, all to the same section?

6 DELEGATE CLAGETT: Mr. Chairman, we eventually
7 arrived at V for Victory which is the result of --

8 THE CHAIRMAN: Scratch E and V.

9 DELEGATE CLAGETT: Yes, because as the additional
10 names went on V they improved upon the earlier ones thus
11 scrapping them.

12 THE CHAIRMAN: Delegate Schneider.

13 DELEGATE SCHNEIDER: Mr. Chairman, I think this
14 is a very important subject and I would suggest the lack of
15 a quorum.

16 THE CHAIRMAN: Very well. The lack of a quorum
17 has been suggested. The Clerk will ring the quorum bell.

18 The pages will distribute Amendment V, V for
19 Victory.

20 This will be Amendment No. 10.

21 The Clerk will read the amendment.



1 MR. QUILLEN: Amendment No. 10 to Committee
2 Recommendation No. GP-13 by Delegate Clagett and others:

3 On page 28 Section 30. Procedure to Adopt a
4 County Instrument of Government in line 2 after the word
5 "Board" add the words "not to exceed nine"; and in line 6
6 after the period add the following:

7 "If additional Charter Board members are nominated
8 by petitions signed by three percent of the registered voters
9 of the county or by three thousand voters, whichever is less,
10 which shall be delivered to the Board of County Commissioners
11 within sixty days after the Charter Board shall have been
12 appointed, then the Board of County Commissioners shall call
13 a special election not less than thirty nor more than
14 ninety days after receipt of the petitions unless a regular
15 election falls within the designated period. The appointees
16 of the Board of County Commissioners and those nominated by
17 petitions shall be placed on the ballot in alphabetical
18 order without party designation. The voters shall be
19 entitled to cast votes for, and elect, a number of nominees
20 equal to the number of Charter Board members originally
21 selected by the Board of County Commissioners and those so

1 elected shall constitute the Charter Board. The Charter
2 Board shall be responsible for drafting the instrument of
3 government.";

4 And in line 8 after the word "appointment" insert the
5 words: "or in the event of an election within twelve months
6 from the date of that election".

1 THE CHAIRMAN: The amendment is submitted by
2 Delegate Clagett and seconded by the co-sponsors.

3 The Chair recognizes Delegate Clagett.

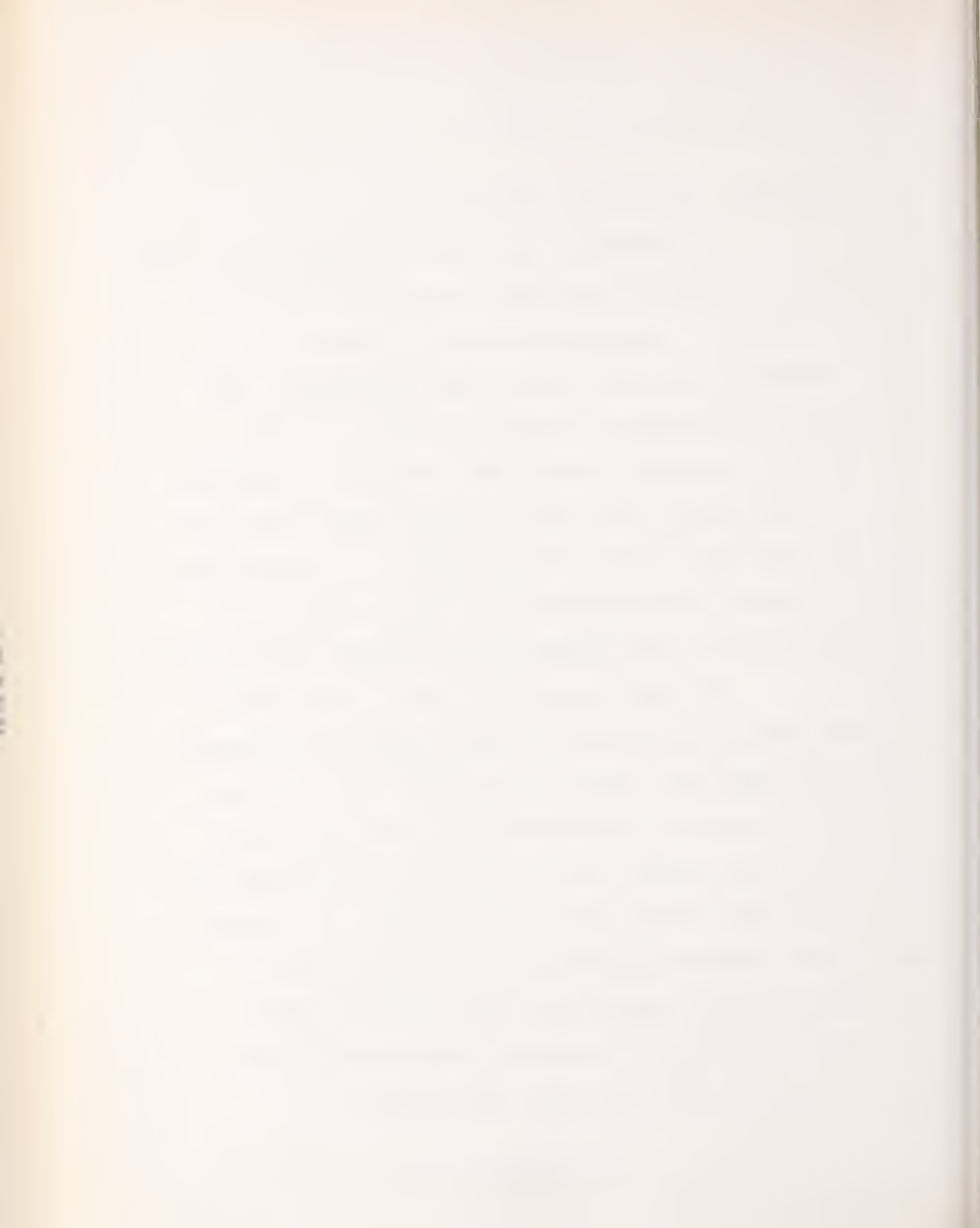
4 DELEGATE CLAGETT: Mr. Chairman, as indicated
5 by the Reading Clerk, this amendment is to Section 30
6 and appears on page 28 of the Schedule of Legislation.
7 By reference to line 1, you will note that as recommended
8 the Board of County Commissioners of a county may appoint
9 a charter board. We make amendment not to exceed nine in
10 number at that point.

11 If they fail to appoint a charter board, then
12 upon receipt of a petition, they will be required to do
13 so. The amendment that is before you provides an alternative
14 approach and that alternative approach is one where by
15 petitions signed by three per cent or three thousand
16 voters, whichever is less, delivered to the Board of
17 County Commissioners within sixty days after the appoint-
18 ment by that Board of County Commissioners of its nominees
19 shall then require that there be a special election not
20 less than thirty days nor more than ninety days after
21 receipt of the petitions unless within that period of time

1 there shall fall a regular election.

2 The nominees of the Board of County Commissioners
3 and the nominees as the result of petitions will then go
4 on a ballot at the special or general election in
5 alphabetical order and without party designation. The
6 voters at the special or general election will then
7 select by their vote no more than the number of nominees
8 originally made by the Board of County Commissioners not
9 to exceed nine and the number receiving the highest number
10 of votes will then constitute the charter board and be
11 responsible for the drafting of an instrument of government.

12 That insert goes at the end of line 6 and you
13 would then pick up at line 7 and go forward as recommended
14 by the Committee. Where it is provided that the charter
15 board so elected or appointed, as the case may be, shall
16 within twelve months from the date of its appointment, and
17 we add these words to make clear the insert with respect
18 to the alternative approach or in the event of an
19 election within twelve months from the date of that
20 election present an instrument of government for the
21 county to the Board of County Commissioners.



1 And thereupon following the procedures by way
2 of publication, referendum, and upon approval by a majority
3 of the voters voting at that election the coming into
4 existence of the charter as the instrument of government
5 for that county.

6 Now, I wish to explain to you that as recommended,
7 there is a period of two years from July 1, 1968, to
8 July 1, 1970, within which the counties can act to bring
9 into existence their own form of charter or instrument
10 of government.

11 Whether by way of the appointment only by the
12 Board of County Commissioners or by way of the elective
13 process upon the filing of petitions, we will fall
14 conveniently within that period in that the maximum
15 period of time involved insofar as the legislative
16 process is concerned would be twenty-one months allowing
17 a period of three months within which the charter
18 as recommended can be published, the voters become
19 familiar with it and cast their vote insofar as the
20 acceptance or rejection of it.

21 Of course, if it is rejected, then the charter

1 that will have been drafted identified by Delegate Hardwicke
2 as the so-called model charter would then become effective
3 in that county as well as in any other counties which had
4 failed to adopt the charter within the prescribed period
5 of time.

6 I urge that you favorably act upon this
7 amendment. It is quite important as you will note by
8 the names who are sponsoring it, coming from Prince
9 Georges County where over the period of many years a battle
10 insofar as the selection of an instrument of government
11 has been a most bitter one.

12 It is felt by providing the two approaches, the
13 appointment and the election process, the final result
14 would be one which would be far more palatable to the
15 people of that county. As it applies there, it applies
16 equally with respect to other counties which have failed
17 to adopt a charter, notwithstanding Article 11A having
18 been available to them since 1915.

19 I urge that you favorably act upon this amend-
20 ment, and that it be included in the Schedule of Legislation.

21 THE CHAIRMAN: Delegate Hardwicke, did you

1 desire to comment?

2 DELEGATE HARDWICKE: Mr. Chairman, I have
3 studied the proposal very carefully and discussed it at
4 great length with Delegate Clagett, and I consider it to
5 be a desirable addition and frankly I think that it will
6 be an improvement. It is a well thought out provision
7 for this Schedule of Legislation, and I urge that it be
8 adopted.

9 THE CHAIRMAN: Any further discussion?

10 (Cries of "Question")

11 THE CHAIRMAN: Delegate Bennett.

12 DELEGATE BENNETT: Delegate Clagett, what
13 concerns me about this section is the timing of it. I
14 take it that the Board of County Commissioners could post-
15 pone the appointment of this charter board up until
16 July 1st, 1970 or very nearly to that date, and then
17 your amendment would come too late, would it not?

18 DELEGATE CLAGETT: Yes, it would then be
19 ineffective because, of course, this whole amendment is
20 designed to fill the gap between the time that the
21 General Assembly would have to act upon it.

1 I believe it is Section 38 of the Interim
2 Provisions and you will find it on page 12. The General
3 Assembly has until July 1, 1969, within which to provide
4 a choice of procedures by which a county can structure
5 its government. This takes care of the interim period
6 until July 1, 1969, and permits the counties, if they
7 choose to do so, to act immediately in the direction of
8 getting a charter drafted.

9 If they fail to do so, then they would fall
10 under whatever choices are available to them provided
11 by the General Assembly pursuant to Section 38.

12 THE CHAIRMAN: Delegate Bennett.

13 DELEGATE BENNETT: Delegate Clagett, wouldn't
14 you then want to change the date from July 1, 1970, to
15 December 1, 1969, if your amendment is to really be
16 effectuated?

17 DELEGATE CLAGETT: No, I would not because it
18 is possible, of course, that the General Assembly will
19 not act at all to provide the choices specified to be
20 provided in Section 38 and if it should fail to do so,
21 this provision, having the effect of law, would accomplish

1 the same purpose. And also I might add I couldn't imagine
2 that the General Assembly would not provide among its
3 choices two approaches similar to the two suggested
4 here, the appointive or the elective process.

5 THE CHAIRMAN: Delegate Bennett.

6 DELEGATE BENNETT: All I want to suggest is
7 that your amendment might fall by the wayside if the
8 County Commissioners decided through dilatory tactics to
9 debate it.

10 THE CHAIRMAN: Delegate Clagett.

11 DELEGATE CLAGETT: We are aware of that, and
12 the consequence of that, of course, would be that that
13 county would then have a so-called model charter on
14 January 6, 1971.

15 THE CHAIRMAN: Delegate Raley.

16 DELEGATE RALEY: Mr. Chairman, would Delegate
17 Clagett yield to a question?

18 THE CHAIRMAN: His time has expired. Is it
19 just one question?

20 DELEGATE RALEY: Just one question.

21 THE CHAIRMAN: Delegate Clagett, will you

1 yield to another question?

2 DELEGATE CLAGETT: Yes, sir, and I will take
3 advantage of this to say also to Delegate Bennett that
4 we do have some forcing procedure by the way of a petition
5 which is in Section 30, but it would be five per cent or
6 ten thousand whichever is less.

7 THE CHAIRMAN: Delegate Raley.

8 DELEGATE RALEY: This section is very important
9 to the small counties who are going into this. What
10 bothers me here is that there is no limit on the number
11 that could be nominated. You could have such a large
12 committee if you have nine it seems to me you could have
13 a tremendously large committee. Did you consider having
14 a limited number that would be on that additional?

15 THE CHAIRMAN: Delegate Clagett.

16 DELEGATE CLAGETT: The final number of persons
17 making up the charter board would not exceed nine. Those
18 on the ballot, of course, we do not place any limit upon
19 that provided there are three thousand or three per cent,
20 whichever is less, behind them.

21 THE CHAIRMAN: Delegate Gullett.

1 DELEGATE GULLETT: I think that there is built
2 into this amendment and also into the original provision
3 of the Schedule of Legislation provision if the county
4 commissioners appear to be dilatory to the extent that they
5 do not appoint the board, the first per cent of the
6 registered voters would then get excited enough to force
7 the county commissioners to appoint the board and probably
8 would proceed to elect their own board and probably
9 could write a charter. They could actually write a
10 charter in less than twelve months. If they wrote the
11 charter within six months, they could turn this over to
12 the county commissioners and they could speed this process
13 up so if the process could be completed in time even
14 though some time were lost initially by the county
15 commissioners failing to act properly, this could be
16 caught up by the voters themselves if they rose up in
17 anxiety about not getting the charter process started.

18 THE CHAIRMAN: Any other questions?

19 Delegate Sosnowski.

20 DELEGATE SOSNOWSKI: Is there anything in here
21 to prevent the county commissioners from nominating a

1 board of one?

2 THE CHAIRMAN: When you say "in here", do you
3 mean in the amendment?

4 DELEGATE SOSNOWSKI: Any place at all.

5 THE CHAIRMAN: Can you answer the question,
6 Delegate Clagett?

7 DELEGATE CLAGETT: There is nothing that would
8 prevent them from doing so, but I think it is so highly
9 unlikely, particularly if you do include the alternative
10 procedure which we suggested by way of this amendment,
11 because if they came up with one, I think it would insult
12 the voters to stimulate them to come up with a petition.

13 DELEGATE SOSNOWSKI: Would you like to lay
14 odds?

15 THE CHAIRMAN: Delegate Clagett.

16 DELEGATE CLAGETT: Do not forget that I am
17 from Prince Georges.

18 THE CHAIRMAN: Any further questions? Any
19 further discussion?

20 Are you ready for the question?

21 The Clerk will ring the quorum bell.

1 The question arises on the adoption of
2 Amendment No. 10.

3 I am sorry, Delegate Hardwicke.

4 DELEGATE HARDWICKE: Mr. Chairman, in support
5 of this amendment, let me point out that this procedure
6 is only our suggestion as to a legislative procedure. If
7 it turned out to be unpractical or unworkable, the
8 legislature can add additional procedures or can amend this
9 one.

10 With regard to those who are worried about
11 time, these are maximum time schedules and we don't believe
12 that the county commissioners will drag their feet and
13 use those maximum time schedules unless they are
14 interested in having the so-called model charters adopted
15 for their counties. This is probably a very well thought
16 out suggestion, and it might very well be that the
17 legislature would not attempt to change it.

18 THE CHAIRMAN: The question arises on the
19 adoption of Amendment 10. A vote Aye is a vote in
20 favor. a vote No is a vote against.

21 Cast your votes.

1 Have all delegates voted?

2 Does any delegate desire to change his vote?

3 The Clerk will record the vote.

4 There being ninety-seven votes in the affirmative
5 and none in the negative, the motion is carried and the
6 amendment is adopted.

7 The pages will please distribute the Amendment
8 Y for voke. This is Amendment 9 on which you have already
9 acted.

10 Delegate Rybczynski, the Chair has been advised
11 by Delegate Fornos that after some discussion with him,
12 you will not offer your Amendment S. Is that correct?

13 DELEGATE RYBCZYNSKI: That is correct, sir.

14 THE CHAIRMAN: Thank you.

15 And the same applies to your Amendment T?

16 DELEGATE RYBCZYNSKI: Correct, sir. I would
17 appreciate that they not be destroyed until we get through
18 with this business.

19 THE CHAIRMAN: That is right, just passed.

20 Delegate Gill, I understand you have the
21 same feeling with respect to your amendments in X and W?

1 DELEGATE GILL: X and W, hold them, please.

2 THE CHAIRMAN: Very well.

3 The amendment prepared by Delegate Fornos and
4 others pertains to Section 30 in the Transitional
5 Provisions and into Sections 21, I think, 22, and 23 on
6 the Schedule of Legislation. They are quite involved.
7 A preliminary examination by Delegate Hardwicke and the
8 members of the staff leads them to advise the Chair that
9 with further time for study, they may accept the amendments
10 and save a great deal of unnecessary discussion. The
11 Chair, therefore, proposes to pass and not consider
12 finally this evening Section 30 under the Schedule of
13 Transitional Provisions, Sections 21, 22, and 23 under
14 the Schedule of Legislation, but to continue and to
15 conclude discussion in the Committee of the Whole of the
16 remaining part of the Schedule of Legislation and report
17 out by the Committee of the Whole to the Convention this
18 evening, move to suspend the rules and pass on second
19 reading these two schedules with the exceptions noted.

20 There is one other perfecting amendment to
21 one of the sections on suffrage and elections passed

1 vesterday which, I think, must be acted upon, but will
2 not require a great deal of discussion. If we can carry
3 through this program we ought to conclude the session this
4 evening without too much longer time, and I think we
5 could then adjourn until about noon tomorrow, have a
6 session to take care of a number of housekeeping details
7 that must be taken care of such as post Convention
8 procedures, resolutions of thanks, and a number of other
9 matters of that sort, hopefully to conclude the session
10 by four o'clock or thereabouts tomorrow afternoon, adjourn
11 to Saturday and take final votes on Saturday assuming that
12 the Committee on Style is able to complete its work
13 tomorrow as they hope they can and have available their
14 final report for consideration Saturday.

15 The only reason for acting on second reading
16 by the Convention tonight on these schedules is that, as
17 I indicated several days ago, I have had the staff of the
18 Committee on Style reviewing these two schedules for the
19 past few days so that if they had any serious style
20 amendments, they could present them to us very promptly.

21 They do not have any such amendments to

1 suggest. These two schedules as indicated earlier are
2 much less important from the point of view of style
3 than the Constitution on which we have been working and,
4 in any event, even after second reading passage this
5 evening any style changes that did develop to be necessary
6 could be acted upon tomorrow afternoon. I make that
7 announcement now to give you some idea of what the
8 program is likely to be for the next few days.

9 Any other amendments to Section 30?

10 The Chair hears none.

11 Any other amendments to Section 31?

12 Any other amendments to Section 32?

13 Do you have an amendment to Section 33?

14 DELEGATE MOSER: It is a new section to be
15 added. There are two of the same number. This would
16 be Amendment F.

17 THE CHAIRMAN: There are actually three
18 amendments to add new sections. I take it you are
19 saying your Amendment F will supplant Amendment D?

20 DELEGATE MOSER: That is correct. Amendment
21 D as in "dog".

1 THE CHAIRMAN: Pages will distribute Amendment
2 F for "fox".

3 Delegate Rybczynski, did you desire the
4 floor?

5 DELEGATE RYBCZYNSKI: Just to ask you, sir, to
6 hold open the possibility of a new Section 19A for
7 tomorrow. If we are going to close any business tonight --

8 THE CHAIRMAN: This is an entirely new section?

9 DELEGATE RYBCZYNSKI: Yes, Mr. Benson and I
10 decided to handle it that way. It has to do with the
11 Orphans' Court.

12 THE CHAIRMAN: It is marked 20A, the one I have.
13 Is that it?

14 DELEGATE RYBCZYNSKI: Either one, yes, sir.

15 THE CHAIRMAN: That could be added to the
16 schedule even after second reading on this part. Would
17 you see the Chair about that immediately at the conclusion
18 of the session tonight, Delegate Rybczynski, for just a
19 moment.

20 DELEGATE RYBCZYNSKI: Yes.

21 THE CHAIRMAN: This will be Amendment No. 11.

1 The Clerk will read the amendment.

2 MR. QUILLEN: Amendment No. 11 to Committee
3 Recommendation No. GP-13 by Delegates Moser and Hardwicke:

4 On page 29 following line 33 of Section 33.
5 County Surveyors. add this new section:

6 "Section 33A. County Elections.

7 All elections for county offices held in
8 November, 1970, shall be for those offices provided for
9 by the instrument of government effective or to become
10 effective on January 6, 1971, for that county."

1 THE CHAIRMAN: The amendment is offered by
2 Delegate Moser and seconded by Delegate Hardwicke.

3 The Chair recognizes Delegate Moser.

4 DELEGATE MOSER: Mr. Chairman, this provision
5 originally was a last sentence in one of the items of the
6 Transitional Provisions relating to local government. It
7 was, however, pointed out that the Legislature is empowered
8 under the Suffrage and Elections Provision of the Constitu-
9 tion to change the dates of county elections, and, accord-
10 ingly, at our suggestion, this sentence was to have been
11 moved into the Schedule of Legislation and out of the
12 Transitional Provisions to enable the Legislature if they
13 wanted to to amend the provision.

14 Through inadvertence it was not typed with the
15 Schedule of Legislation.

16 What this does -- it is self-evident, I think,
17 what this does. It simply provides that the county elections
18 held in November of 1970 shall be for those offices which
19 are provided for in the county instrument of government,
20 which will become effective on January 6, 1971, or for the
21 county instrument of government that is already in effect.

1 I think no further explanation is necessary.

2 THE CHAIRMAN: Any further discussion?

3 Are you ready for the question? The Clerk will
4 ring the quorum bell.

5 The question arises on the adoption of Amendment
6 No. 11. A vote Aye is a vote in favor of the amendment. A
7 vote No is a vote against.

8 Cast your votes.

9 (Whereupon, a rollcall vote was taken.)

10 THE CHAIRMAN: Has every delegate voted? Does
11 any delegate desire to change his vote?

12 The Clerk will record the vote.

13 There being 88 votes in the affirmative, none in
14 the negative, the motion is carried. The amendment is
15 adopted.

16 Delegate Grant, do you desire to offer your
17 Amendment P?

18 DELEGATE GRANT: Yes, I do, Mr. President.

19 THE CHAIRMAN: The pages will please distribute
20 Amendment P.

21 The Clerk will read the amendment.

1 MR. QUILLEN: "Amendment No. 12 to Committee
2 Recommendation No. GP-13, by Delegates Grant, Barrick,
3 Boileau, Cardin, Carson, Case, James, Kirkland, Moser,
4 Needle, Neumann, Rollins, Sybert, Willis, and Willoner.

5 "On page 29 following line 33 of Section 33.
6 County Surveyors add the following new section:

7 "Section 33A. Charter Amendments of Municipal
8 Corporations.

9 "Any municipal corporation existing on June 30,
10 1968, shall have the power and authority (a) to amend or
11 repeal an existing charter or local laws relating to the
12 incorporation, organization, government, or affairs of said
13 Municipal Corporation heretofore enacted by the General
14 Assembly of Maryland, and (b) to adopt a new charter and to
15 amend or repeal any charter consistent with the provisions of
16 this Constitution and any laws of the General Assembly
17 pertaining thereto."

18 THE CHAIRMAN: The amendment is submitted by
19 Delegate Grant, seconded by the cosponsors.

20 The Chair recognizes Delegate Grant.

21 DELEGATE GRANT: Mr. President, would you add the



1 name of Delegate Gullett to the sponsors?

2 THE CHAIRMAN: Delegate Gullett is added to the
3 list of sponsors.

4 DELEGATE GRANT: This amendment will require a
5 little bit of history. If anyone wants to follow me in
6 detail, you can start with page 85 of the copy of the
7 Constitution.

8 Roughly, in 1954 an amendment to the Constitution
9 was adopted, Article 11E, Municipal Corporations. Without
10 having to read it, it essentially consists of six sections.
11 Section 1 provided that from here on in that the General
12 Assembly would deal with municipal corporations, only by a
13 public general law. Now, the specific part of the amendment
14 speaking to that says, "but the General Assembly shall act
15 in relation to the incorporation or organization of govern-
16 ment or affairs of any municipal corporation only by general
17 law."

18 Section 2 provided for classification of muni-
19 cipalities and this section was never implemented by the
20 General Assembly, never used in Maryland.

21 Section 3 of this constitutional amendment is



1 essentially the same as the sections that we have proposed
2 to add. That said, "Any such municipal corporation, now
3 existing or hereafter created, shall have the power and
4 authority (a) to amend or repeal an existing charter or
5 local laws relating to the incorporation, organization,
6 government or affairs of said municipal corporation hereto-
7 fore enacted by the General Assembly of Maryland, and (b)
8 to adopt a new charter, and to amend or repeal any charter
9 adopted under the provisions of this article."

10 Now, that was Section 3 of the amendment. Section
11 4 of the amendment set up the procedures by which this was
12 to be done.

13 Section 5 of the amendment dealt with taxation,
14 and this particular part of the amendment has been already
15 incorporated in parts of the Constitution dealing with
16 State Finance.

17 Section 6 of the amendment dealt with laws re-
18 garding the Sabbath day and alcoholic beverages which are
19 not germane at this time.

20 Now, as a result of the passage of that amend-
21 ment, the General Assembly then enacted Article 23A, and in



1 Sections 11 to 18 of 23A, they described how the charter
2 amendments were to be made by the municipalities. Section
3 11 of Article 23A of the Code says: "Every municipal
4 corporation in this State shall proceed as in this sub-
5 heading provided in exercising and applying the powers for
6 the amendment of municipal charters which are granted thereto
7 by Article 11E of the Constitution of Maryland."

8 Now, the remaining sections, from 12 to 18, are
9 details of procedures about the resolutions, posting,
10 publication, referendum, et cetera.

11 Now, when the Local Government Article was re-
12 ported out of the committee, we said specifically that the
13 municipal corporations shall continue to exercise all those
14 powers which they now have. As a result, this language has
15 not been changed in either the Committee of the Whole or
16 the Committee on Style and Drafting and still remains the
17 very same if you look at Article 7.05 in line 48 on page
18 3. It says, "or their existing powers as drawn," et cetera.

19 What we are talking about is the existing powers.
20 The memorandum which accompanied the Local Government
21 Committee report on this said specifically, "Your

1 Committee's recommendation retains for existing municipali-
2 ties, not only their existing charter powers, but also those
3 powers authorized by law. Existing municipal corporations
4 are permitted by these existing laws to amend their
5 charters."

6 The difficulty is that although all law is
7 continued in effect and therefore Article 23A would be
8 continuing in effect as statutory law, it provides only the
9 procedure and not the authority. The authority to the
10 amendment of the charter is contained in Article 11E, Section
11 3 of the old Constitution.

12 Now, municipal corporations are essentially a
13 creature of the General Assembly in that the General
14 Assembly has plenary power to do with them whatever they
15 want to do. Of course they have to do it by public general
16 law, but they are within the complete purview of the
17 General Assembly. Therefore, we do not want to put what was
18 formerly 11E necessarily in the constitutional status. We
19 have to continue to give it legislative status.

20 THE CHAIRMAN: You have one minute.

21 DELEGATE GRANT: If at some future time the

1 General Assembly would desire to change this, they should
2 have an option but up until that time we have to have a
3 complete package in. We have to retain Section 3 of Article
4 11E of the old Constitution to give the authority and we
5 have already retained Article 23A of the Code to implement
6 that authority by the procedures.

7 Therefore, it is necessary in the Schedule of
8 Legislation to incorporate Section 3 of Article 11E of the
9 old Constitution.

10 THE CHAIRMAN: Delegate Grant, in view of the
11 Amendment 11, would you modify your amendment 12 to change
12 33A in line 4 to 33B?

13 DELEGATE GRANT: Yes, Mr. President.

14 THE CHAIRMAN: Any objection? If not, the
15 modification is made by unanimous consent. 33B instead of
16 33A, in line 4.

17 Is there any further discussion.

18 Delegate B. Miller.

19 DELEGATE B. MILLER: Would Delegate Grant yield
20 to a question?

21 THE CHAIRMAN: Delegate Grant.

1 DELEGATE GRANT: Yes.

2 THE CHAIRMAN: Delegate Miller.

3 DELEGATE B. MILLER: If we put all this language
4 in the schedule, what could not the municipalities do that
5 they couldn't do by putting the language in?

6 THE CHAIRMAN: Delegate Grant.

7 DELEGATE GRANT: As it is right now, the
8 municipalities are authorized to amend their charter. That
9 is, they could amend themselves. The General Assembly doesn't
10 have to pass a law. The procedure whether to amend it would
11 still continue in existence but the authority to do so would
12 not be in existence if they didn't have it to do it with.

13 DELEGATE B. MILLER: Would this mean if they needed
14 the authority to amend their charter, they would have to go
15 to the General Assembly.

16 THE CHAIRMAN: Delegate Grant.

17 DELEGATE GRANT: If they had to. First of all,
18 essentially they would no longer have authority to amend
19 their charter. That is the problem. Now one of the
20 existing powers they have is the power to amend this
21 charter. In other words, we create an inconsistency in that

1 we say they have the existing power but we then turn around
2 and by leaving the procedure but not the authority, we do
3 not give them that existing power.

4 THE CHAIRMAN: Delegate B. Miller.

5 DELEGATE B. MILLER: As I understand it, you are
6 saying the procedure for changing, amending the charter in
7 the municipality is now in here but the authority is not,
8 and my question to you is that if they then need -- since
9 the procedure is here, and you tell me -- and the authority
10 is not, why cannot they go to the General Assembly and ask
11 for that authority?

12 THE CHAIRMAN: Delegate Grant.

13 DELEGATE GRANT: There would be no reason why the
14 municipalities could not go to the General Assembly and ask
15 the authority. What I point out is that it is not necessary
16 for them to do it. In other words, there is no point of
17 providing for procedure if you don't have authority to im-
18 plement the procedure.

19 THE CHAIRMAN: Delegate B. Miller.

20 DELEGATE B. MILLER: Where do we put the
21 procedure? Maybe we had better strike the procedure and let

1 the General Assembly act the whole thing.

2 THE CHAIRMAN: Delegate Grant.

3 DELEGATE GRANT: Delegate Miller, the procedure
4 is Article 23A. That is the Code. In other words, there is
5 a whole section in the Code. The problem is the whole
6 section of the Code, the authority for it is Section 11E of
7 the Constitution; because of the fact the Constitution goes
8 out of existence, this would mean that there would be no
9 authority to implement that section of the Code, although
10 all the procedures set out in the Code continue in effect.
11 The authority to do so does not.

12 THE CHAIRMAN: Delegate Miller.

13 DELEGATE B. MILLER: I hate to belabor this point
14 but I thought when we wrote it in the Local Government
15 Article we said the General Assembly shall have the power
16 over the municipalities and it seems to me that we ought
17 to leave it that way and let the General Assembly act. I
18 don't see any reason for this, or I would like to understand
19 it.

20 THE CHAIRMAN: Delegate Grant.

21 DELEGATE GRANT: First of all, the General

1 Assembly does have the power over the municipalities. The
2 Constitution says that the municipalities shall retain all
3 their existing powers. One of the existing powers is the
4 power to amend their constitution. The power to amend their
5 Constitution -- I am sorry, the power to amend their charter
6 is contained in Article 23A as a procedure, 11E is the
7 authority. It is simply a transitional provision. It is a
8 piece of legislation. If the Legislature doesn't like it,
9 they can repeal it.

10 THE CHAIRMAN: Further questions. Delegate
11 Miller?

12 DELEGATE B. MILLER: No, I think I would like to
13 comment at some point.

14 THE CHAIRMAN: Very well. You may do so now.

15 DELEGATE B. MILLER: I have some hesitation
16 about a Schedule of Legislation that will get so long and
17 so cumbersome that the General Assembly will feel that this
18 is not truly a constitution or a convention session but
19 extra session of the General Assembly, and I think that when
20 we have clearly delineated in this Constitution what it is
21 we expect from the General Assembly, that we ought to leave



1 something for them to do. I would oppose this amendment.

2 THE CHAIRMAN: Delegate Moser.

3 DELEGATE MOSER: Mr. Chairman, I rise in favor
4 of this amendment, and I hope possibly to answer some of
5 Delegate Miller's doubts about it and to -- and I hope I
6 can persuade her to vote for it and anybody else who has any
7 doubts. It is merely a perfecting provision, and Delegate
8 Grant described it I think fairly well, but I point out that
9 every one of these items that we are approving, Schedule of
10 Legislation of the General Assembly, they could pass if they
11 wanted to, but this is an item which I think falls into the
12 first category that Delegate Hardwicke explained as being an
13 item appropriate for the schedule. That is to say, an item
14 which is in a section of the prior Constitution, which
15 section of the prior Constitution is not itself being carried
16 forward, but which section of the prior Constitution is
17 necessary to carry forward as a schedule of legislation.

18 Now, the General Assembly can always amend this,
19 but it is necessary to carry forward in order to authorize
20 the municipalities to amend their charters, and if the
21 General Assembly did not within a sufficient period of time



1 after the effective date of the new Constitution pass such
2 a law, just as is the case with all the other provisions of
3 the schedule, then there would be a problem.

4 I further point out that when the Local Government
5 Committee article was presented on the floor at first read-
6 ing, I was asked questions by Delegate Adkins, Delegate
7 Koger, Delegate Kirkland, specifically as to whether the
8 provision was intended to permit the existing municipalities
9 to amend their charters, and I said yes to all three
10 questions, and I further said that there would be a provision
11 recommended by the Local Government Committee in the
12 Schedule of Legislation to accomplish that, and this is
13 that provision.

14 THE CHAIRMAN: Delegate Boileau.

15 DELEGATE BOILEAU: Mr. President, if I might just
16 expand for a moment on some of the items that the chairman
17 of the Local Government Committee mentioned. We are talking
18 here not about expanding powers of municipalities in any
19 way, shape, or form. We are talking about charter changes
20 that would have simply given -- to give you an example,
21 change from a commission form to mayor and council form.

1 They are merely housekeeping changes within the municipali-
2 ties themselves. They cannot in any way add to the power
3 that is given to them by the General Assembly or by this
4 Constitution.

5 THE CHAIRMAN: Any further discussion? Delegate
6 Macdonald.

7 DELEGATE MACDONALD: Mr. President, fellow
8 delegates, I rise in opposition to this amendment. I really
9 don't understand it in the first place, and, secondly, if it
10 does anything, it seems to me to add to the powers of
11 municipal corporations.

12 The Local Government Committee gave this more than
13 adequate consideration, and we adopted three sections on
14 municipal corporations, to give them powers, to place them
15 under the General Assembly and say what powers they should
16 have and what functions they could perform.

17 I read this section to grant them additional
18 powers, if it does anything, and I don't think it is in
19 keeping with the report of the Local Government Committee,
20 which was adopted by this Convention, and I oppose it.

21 THE CHAIRMAN: Delegate Hardwicke.

1 DELEGATE HARDWICKE: Mr. Chairman, ladies and
2 gentlemen, I have to oppose this amendment as a transitional
3 provision. First of all, if it is only an attempt to con-
4 tinue the powers of municipalities as contained in Article
5 23A, Sections 12 and following of the present annotated code,
6 it is unnecessary, because we are preserving all of the
7 existing laws of the State of Maryland which are not in
8 conflict with the new Constitution, and consequently we
9 preserved all of the provisions of Article 23A, with regard
10 to the rights of municipal corporations to amend their
11 charter and to repeal charters.

12 Section B of this amendment seems to give the
13 municipalities the right to adopt a new charter, and under
14 our new concepts this kind of adoption is a matter for the
15 counties to determine whether or not new charters, new
16 municipal corporations, will come into existence and con-
17 sequently it is contrary to the philosophy of the new
18 Constitution, and I must oppose this amendment as being
19 either unnecessary or pernicious.

20 THE CHAIRMAN: Delegate Gullett.

21 DELEGATE GULLETT: Mr. Chairman, I rise to

1 answer both Delegate Macdonald and Delegate Hardwicke who
2 have spoken together in opposition to this amendment. I
3 find in no way additional powers for the municipal corpora-
4 tions. I would be extremely disturbed for instance in the
5 City of College Park to find we could not raise our tax rate
6 because the tax rate is fixed in the municipal charter.
7 This would certainly be a sorry state of affairs.

8 As to Delegate Hardwicke's mention of new
9 charters, it has for years been the desire of the General
10 Assembly to get municipalities to update their charters,
11 adopt new charters. They even went to the extent of pub-
12 lishing new charters, 23B of the annotated code. A great
13 many of municipalities have these charters dating back to the
14 1880s, so I think the General Assembly would still hold they
15 would adopt these new charters. Certainly this amendment
16 would be a perfecting amendment. I am for it.

17 THE CHAIRMAN: Delegate Carson.

18 DELEGATE CARSON: Mr. Chairman, ladies and
19 gentlemen, the history of this particular section, which
20 now lies in Section 3 of Article 11E of your Constitution,
21 is interesting. Back in the days before 1954 most of the

1 local legislation, or at least a great part of it in this
2 State, was with regard to municipalities, and it was a
3 great evil. As a result, in 1948, the Legislature took
4 steps trying by the Express Powers Act with regard to
5 municipalities to end this, but the Sobeloff Commission in
6 its third report recommended that a constitutional amend-
7 ment go even further and grant home rule to municipalities,
8 and that constitutional amendment was then passed in 1954.
9 This section is at the heart of the Sobeloff Commission
10 recommendations and at the heart of home rule in munici-
11 palities. What it did at that time is require the General
12 Assembly to act only by general law with regard to
13 municipalities. At the same time it permitted municipalities
14 to obtain powers by changing their charter as long as the
15 General Assembly general law did not preclude that, and
16 municipalities have used that since that time and since
17 that time there has been no local legislation with regard
18 to municipalities.

19 This is an important section, but we are putting
20 it in the statutory provisions and not in the transitory
21 provisions so that the Legislature could change it at any

1 time. We think it is important. We think that all of the
2 technicalities regarding how you change the charter, which
3 are in statute, both from this and that, this gives right
4 from those. They are intertwined. I think it is very im-
5 portant.

6 In addition, one other factor, a psychological
7 one only, and that is that the municipalities and Municipal
8 League desire to see this in the Legislation and I think it
9 desirable to put it there.

10 I went to Baltimore with Mr. Marbury about four
11 weeks ago and spoke to the Municipal League. As a result
12 you may have seen in the papers that they now support the
13 Constitution and intend to come out for it wholeheartedly.
14 They did it partially upon the basis that they expect to
15 see this at least in the legislative schedule, and I think
16 it is desirable to see it there, because it should be there.
17 It has been recommended by the Sobeloff Commission, by the
18 people of this State, and I think it is desirable and
19 necessary to put it here. Certainly it bodes no evil, It
20 may be changed at any time by the Legislature and I strongly
21 urge you support this amendment which I think is in the

1 nature of a housekeeping one at this time.

2 THE CHAIRMAN: Delegate Clagett.

3 DELEGATE CLAGETT: Would Delegate Grant yield to
4 a question please?

5 THE CHAIRMAN: Delegate Grant, do you take the
6 floor to yield to a question?

7 DELEGATE GRANT: Yes, sir.

8 THE CHAIRMAN: Delegate Clagett.

9 DELEGATE CLAGETT: Delegate Grant, under Section
10 B, providing that the municipal corporation existing on
11 June 30, 1968, could adopt a new charter and amend or repeal
12 any charter, et cetera, would that permit it to do so by way
13 of an annex action without the consent of the county?

14 DELEGATE GRANT: No.

15 THE CHAIRMAN: Delegate Clagett.

16 DELEGATE CLAGETT: Why not?

17 THE CHAIRMAN: Delegate Grant.

18 DELEGATE GRANT: The operation--first of all,
19 the operation of this is governed by the section in the new
20 Constitution.

21 THE CHAIRMAN: What section do you refer to,

1 Delegate Grant?

2 DELEGATE GRANT: 7.05, 7.06, 7.07.

3 THE CHAIRMAN: Delegate Clagett.

4 DELEGATE CLAGETT: Delegate Grant, would not
5 this have the effect of law, which would be equivalent to
6 the act of the General Assembly overriding the requirement
7 of Section 7.05, that no alteration of boundary would take
8 place without the consent of the county and the municipality?

9 THE CHAIRMAN: Delegate Grant.

10 DELEGATE CLAGETT: Except for the fact within
11 itself it cannot be inconsistent with the provisions of this
12 Constitution.

13 THE CHAIRMAN: Delegate Clagett.

14 DELEGATE CLAGETT: Well then, as I understand,
15 what you are telling me is that the consent of the county
16 would not be required.

17 THE CHAIRMAN: Delegate Grant.

18 DELEGATE GRANT: I point out essentially it has
19 got nothing to do with annexation.

20 THE CHAIRMAN: Delegate Clagett.

21 DELEGATE CLAGETT: If the new charter provided

1 that the municipality could annex, and that would be con-
2 sistent with existing law and powers, would that not be an
3 alteration of the boundaries of the municipalities?

4 THE CHAIRMAN: Delegate Grant.

5 DELEGATE GRANT: This is a piece of legislation
6 essentially when it is enacted and as a piece of legislation
7 it has to conform with 7.05, 7.06, and 7.07. Now 7.05,
8 7.06, and 7.07 provide that as a difference, what you had
9 heretofore, that the county has a say in annexations. The
10 General Assembly will have the final say by law of course.

11 THE CHAIRMAN: Delegate Clagett.

12 DELEGATE CLAGETT: As I read Section 7.05, it
13 contemplates that any alteration of the boundaries of the
14 municipality would be accomplished by the consent of the
15 municipality and the county. In the event, but only in the
16 event of a dispute between the two, or by way of action by
17 the General Assembly, which I understand this would be the
18 equivalent of, no alteration of boundary of municipality
19 could take place.

20 This amendment has the effect of the General
21 Assembly moving in and usurping that concurrent action by



1 county and municipality, does it not?

2 THE CHAIRMAN: Delegate Grant.

3 DELEGATE GRANT: No, it does not. First of all,
4 this is carrying forth a clause in the old Constitution.
5 It obviously is the bottom for Section 23A. That is the
6 obvious reason it was carried forward or is suppose to be
7 carried forward. Now, Section 7.05 establishes a totally
8 separate set of rules on annexation, to wit, gives the county
9 say in future annexations. Therefore, the General Assembly
10 would have to act under Section 7.05.

11 THE CHAIRMAN: Any further question, Delegate
12 Clagett?

13 DELEGATE CLAGETT: No, sir, I believe that is all.

14 THE CHAIRMAN: Delegate Moser.

15 DELEGATE MOSER: Mr. Chairman, I am a little bit
16 surprised at the questions and the opposition in view of
17 several facts. Number one, this provision was a specific
18 item among the Schedule of Legislation, transitional
19 legislation, which the Local Government Committee, after
20 due notice to all members, adopted formally by actual
21 journal vote and sent on to the General Provisions Committee



1 or whatever committee was going to consider the provisions
2 relating to transitional provisions. My recollection is the
3 vote was 15 to 0, and the only change was one of style in
4 lines 15 and 16.

5 Point two, it was a specific point of what the
6 Local Government Committee intended to do with respect to
7 municipalities.

8 Number three, nowhere in Section -- in Article
9 23A does a similar provision appear. It is necessary. It
10 is not 23A, because it is in the Constitution. It is
11 wholly and entirely, and notwithstanding the comments of
12 Delegate Hardwicke, in complete accord with the provisions
13 of the Constitution and specifically with the provisions of
14 the Local Government Article.

15 THE CHAIRMAN: Delegate Clagett.

16 DELEGATE CLAGETT: Mr. Chairman, I do not wish
17 my questions to be misconstrued as being opposition. I am
18 satisfied by the answers, or substantially satisfied by
19 the answers given by Delegate Grant and am not opposing this
20 amendment.

21 THE CHAIRMAN: Delegate Wiedemeyer.

1 DELEGATE WIEDEMEYER: Mr. President, so as to
2 clear up some of the doubtful promises, I would like to ask
3 Delegate Moser a couple of questions.

4 THE CHAIRMAN: Delegate Moser, do you yield to a
5 question?

6 DELEGATE MOSER: Yes, sir.

7 THE CHAIRMAN: Delegate Wiedemeyer.

8 DELEGATE WIEDEMEYER: Is it not true that this
9 amendment does not give any constitutional provision, but
10 only a temporary statutory implementing provision, which
11 must be consistent with and not inconsistent with the
12 constitutional provisions of Section 7.05 and 7.06?

13 DELEGATE MOSER: Yes.

14 THE CHAIRMAN: Delegate Wiedemeyer.

15 DELEGATE WIEDEMEYER: Is it not true that this
16 is merely a stop-gap piece of legislation to take care of
17 the situation until such time as the Legislature can either
18 repeal or re-enact this provision and give the necessary
19 authority under the provisions of Section 7.07 and 7.05 and
20 7.06?

21 THE CHAIRMAN: Delegate Moser.

1 DELEGATE MOSER: Yes.

2 THE CHAIRMAN: Delegate Mentzer.

3 DELEGATE MENTZER: I have a question to Delegant
4 Grant.

5 THE CHAIRMAN: Delegate Grant, do you take the
6 floor to yield to a question?

7 DELEGATE GRANT: Yes, sir.

8 THE CHAIRMAN: Delegate Mentzer.

9 DELEGATE MENTZER: In line 9 where it uses the
10 phrase "local laws," does that not mean laws of that
11 municipality? I wanted to be sure about that.

12 THE CHAIRMAN: Delegate Grant.

13 DELEGATE GRANT: Yes. I would mean municipal
14 ordinances.

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1 THE CHAIRMAN: Delegate Hardwicke.

2 DELEGATE HARDWICKE: Mr. Chairman, ladies and
3 gentlemen, I want to point out that this Convention has
4 supported the final recommendations of the ad hoc
5 subcommittee on transitional provisions, consistently, and
6 I don't think you should make an exception here.

7 First of all, I want to point out that the
8 only things that we can include in this schedule of
9 legislation are matters which are urgent and important.

10 Those two adjectives occur in section 17 of
11 the implementing legislation, urgent and important. It must
12 be so urgent and so important that they cannot wait until
13 the next general session of the legislature.

14 Now, assuming that this amendment has all of
15 the merit and all of the virtues which its proponents claim
16 that it has, there is absolutely no reason that has been
17 shown that this can't wait until the new session of the
18 legislature in 1969.

19 I think that the questions that have been
20 directed toward the sponsors show that you have misgivings
21 about it. They show that there is some difficulty in

2
1 understanding it.

2 Let me point out that in sections 12, 13, and
3 for around 20 or 30 pages of the existing code, there is
4 ample provision made for the amendment to existing municipal
5 charters. For example, section 12 of article 23(a) provides:
6 an amendment of a municipal charter may be initiated by
7 the legislative body of a municipal corporation, or by
8 petition of qualified voters of a municipal corporation.

9 Then the code goes on to spell out at great
10 length the procedure. This is absolutely unnecessary. It
11 is completely inconsistent with what we have done here this
12 evening, and I urge you to defeat this amendment.

13 THE CHAIRMAN: Delegate Barrick.

14 DELEGATE BARRICK: Mr. Chairman, it seems to
15 me that Delegate Hardwicke has missed the point. It is
16 true that it is in 23(a), but that is only the procedure
17 and the authority is in 11(3).

18 Now, I think the Transitory Committee did a
19 wonderful job, but it was very clear in the draft that was
20 submitted for the schedule of legislation of local
21 government that the municipalities would have the power to

3
1 amend their charters. That vote, as the Chairman knows,
2 and was mentioned a while ago, was 15 to nothing. When they
3 take our provisions out of local government and completely
4 ignore them, it seems to me that it is going a little too far.
5 There has been no reason expressed here that I have heard,
6 for not putting this in, other than it would be some
7 extra language in the schedule.

8 I submit that if we vote against this you
9 will be voting against the complete will of the Local
10 Government, and do an injustice to this particular section.

11 THE CHAIRMAN: The Chair would like to comment
12 that this very extensive discussion has done little to
13 clarify the issue, and I think has caused a great deal of
14 confusion, and at the risk of taking a few more moments,
15 I would like to direct a few questions to Delegate Carson,
16 and I say Delegate Carson because he indicated that he
17 undertook to talk to the Municipal League, and in a
18 sense represents some of the views of at least one of the
19 committees.

20 I think all of us must keep in mind in the
21 background for these questions that what Delegate Hardwicke

1 commented upon is absolutely true. We are not authorized
2 under the enabling act to include in the schedule of
3 legislation matters which we would like to see there, or which
4 we think ought to be there. We are limited to two categories
5 of matters, matters in the present Constitution, which
6 we have eliminated from the Constitution, and which must
7 not, should or ought, but which must be continued because
8 there is not time for the legislature to act; and, secondly,
9 matters which require legislation before the legislature
10 can act, because of the provision which we had included in the
11 Constitution, in the new Constitution.

12 In the light of those two premises, and in
13 the light of Delegate Grant's statement that this provision,
14 section 33(b) is not intended to grant to the municipalities
15 any powers they do not have, and in the light of the
16 provisions of section 7.05, which provides expressly for
17 the continuance of existing powers of the municipality,
18 the Chair suggests that the discussion has left it far from
19 clear that this section meets either of the two requirements,
20 and does not, if it doesn't, does not merely reaffirm what
21 is in section 7.05.

1 I would like you to comment on those three
2 things if you could, Delegate Carson. In other words,
3 if this is indeed not new powers, but only existing powers,
4 why is it not covered by section 7.05?

5 DELEGATE CARSON: Mr. Chairman, section 3 of
6 article 11(e) of the present Constitution contains the
7 language that you have here, except for the words, on June
8 30, 1968, and the reference is identical to that. The
9 Case law, and the Sobeloff Commission's third report indicate
10 clearly that this is the basis for the sections starting
11 with, I believe, section 12 in Article 25(a) of the
12 present code, which specifies the exact procedures for
13 municipal corporate charter amendments.

14 Now, those sections in Article 23(a) do not
15 state how or for what purpose -- excuse me -- for what
16 purposes the charter amendments may be made. They merely
17 specify in what manner they shall be made.

18 There is a Maryland case, I believe it is
19 Hitchins, but I am not sure, interpreting this particular
20 language we have here, and it makes it clear that a
21 municipal corporation under this language may amend its

1 charter and obtain any powers not denied by general law
2 by the General Assembly by charter amendment subject to
3 referendum of the municipality.

4 That is all subject to general law passed
5 by the General Assembly, and still would be under our
6 proposal here.

7 So the underlying basis for municipal corporate
8 changes is in 11(a), and the sections in 23(a) are only
9 implementation of that. As a matter of fact, the first
10 section, section 12 of 23(a), says pursuant to the power
11 granted by 11(e), the following sections are enacted.

12 I think it is desirable, I think it is necessary,
13 whatever the words are, that this go into at least the
14 legislation portions of what we are doing now.

15 THE CHAIRMAN: Delegate Carson, may I try to
16 paraphrase that, if I followed you?

17 Are you saying that the municipal corporations
18 have no existing power with respect to amendment of
19 their charters, except what is derived from the present
20 Constitutional provision which you embodied in 33(b)?

21 DELEGATE CARSON: I am, Mr. Chairman, and I

1 am saying that the provisions of 23(a) are only procedural
2 implementations of the power granted by article 11(d).

3 THE CHAIRMAN: And you are saying that they
4 have no power except that is derived from (e); is that
5 correct?

6 DELEGATE CARSON: I am saying that in reference
7 to charter amendments, yes, Mr. Chairman.

8 THE CHAIRMAN: Then I ask you as to the second
9 question, and that is as to the right of this Convention
10 to include it. Is it, conceding that it is a provision in
11 the existing Constitution, that is, not being continued
12 in the Constitution, is it one as to which legislation is
13 imperative before the General Assembly can act?

14 DELEGATE CARSON: In my opinion, Mr. Chairman,
15 it is.

16 THE CHAIRMAN: Why?

17 DELEGATE CARSON: I think it is, if the
18 Constitution is passed, and this language no longer exists,
19 then the powers the municipalities, with regard to charter
20 amendments, may possibly be held to have gone by the wayside
21 until the General Assembly can thereafter act, and there

1 may be a gap. There may be a gap until the next regular
2 legislative session, in which no legislation fills this
3 gap.

4 I think, therefore, it is necessary.

5 THE CHAIRMAN: Delegate James.

6 DELEGATE JAMES: Mr. Chairman, the language,
7 existing powers as drawn, and interpreting the phrase,
8 existing powers, does that include the power of amendment?

9 THE CHAIRMAN: That is the point I am trying
10 to get to.

11 DELEGATE JAMES: It seems to me that you leave
12 the question open.

13 You carry forward the constitutional provision
14 in the transitional schedule of legislation. By so doing
15 you make it very clear that this existing power is intended
16 to include the power to amend. At least you clarify any
17 difficulty.

18 THE CHAIRMAN: Delegate Carson, if I may just in
19 one more sentence try to summarize the result of the colloquy
20 between you and the Chair: If I follow you, you justify
21 this section on the ground (1) that the only clear, existing

1
2 power of municipalities with respect to the amendment of
3 charters exists by virtue of Article 11(e) of the
4 Constitution, and that unless that is perpetuated in this
5 section, then between May 14, 1968, and the next session
6 of the legislature, the power of municipalities to amend
7 their charters, if not completely nonexistent, is at least
8 in grave doubt.

9 Is that your position?

10 DELEGATE CARSON: That is, Mr. Chairman,
11 and in the Hitchins case, I believe it is the Hitchins
12 case, it makes it clear to me in my reading of it, and
13 the Sobeloff Commission cited this case, that the power does
14 emanate from this, and this alone, and did not exist prior
15 to this being in 11(e).

16 THE CHAIRMAN: Further discussion?

17 Delegate Chabot.

18 DELEGATE CHABOT: May I ask a question of Dele-
19 gate Carson?

20 THE CHAIRMAN: Delegate Carson, do you yield
21 to a question?

1 DELEGATE CARSON: Yes, sir.

2 THE CHAIRMAN: Delegate Chabot.

3 DELEGATE CHABOT: In section 7.05, we use the
4 word "existing" at two places: on line 18 we clearly say
5 "existing at the effective date of this Constitution. "

6 My question is: When we use the word
7 "existing" on line 21, are we talking about that same
8 date, or are we talking about at any time that a municipality
9 wishes to take one of the acts referred to in section 7.05?

10 THE CHAIRMAN: Delegate Carson.

11 DELEGATE CARSON: We are talking about the same
12 dates, the word "existing" relating to the same time.

13 THE CHAIRMAN: Any further question, Delegate
14 Chabot?

15 DELEGATE CHABOT: Yes.

16 At the time of the effective dates of this
17 Constitution, since the old Constitution will have passed
18 out of existence unless we do something, the existing
19 powers referred to in line 21 will no longer include
20 what is now in Article 11(e); is that correct?

21 THE CHAIRMAN: Delegate Carson.

1 DELEGATE CARSON: That is my exact fear,
2 Delegate Chabot.

3 THE CHAIRMAN: Delegate Case.

4 DELEGATE CASE: Mr. Chairman, so there can be
5 no doubt about this point, and to answer Delegate
6 Hardwicke's statement that section 23(a) does grant the
7 power to amend, I would like to state categorically that it
8 does not and that it states only the procedure for amending.

9 Section 11 of that article, article 23 (a), says:
10 "Every municipal corporation in this State shall proceed
11 as in this subheading provided in exercising and applying
12 the powers for the amendment of municipal charters, which
13 are granted thereto by Article 11(e) of the Constitution."

14 So it is very clear in my judgment that muni-
15 cipal corporation powers to amend stems not from Article
16 23(a), which I grant is preserved, but from Article 11(e),
17 which is not preserved.

18 Now, Delegate Hardwicke has said that there is
19 no reason for the emergency, and I would like to speak to
20 that.

21 There are many charters in this State, and they

1 have dealt with a great many of them, particularly charters
2 of small communities on the Eastern Shore of Maryland, where
3 the charters themselves either provide for no method of
4 amendment at all, or provide for a method that is
5 so cumbersome as to make it almost impossible.

6 These communities from time to time need
7 charter amendments to authorize the issuance of bonds, to
8 make needed public improvements. We do this in our office
9 all the time, draw up charter amendments to permit the
10 issuance of bonds.

11 Now, if in my judgment this section does not
12 go in, and the legislature of course would not have -- and
13 the legislature wouldn't act in this area, then it would
14 mean that these municipalities would be without a method of
15 obtaining needful funds for capital improvements that they
16 otherwise would have.

17 I know of no bond counsel in the State who would
18 pass a bond issue for a municipality on an amendment absent
19 a provision of this character until after the legislature
20 could act in 1969, and I think this would be an emergency,
21 and I think therefore the section does not fit the

1 requirements which have been set out before us, so I think
2 on both counts the section is needed, and I hope this
3 amendment is adopted.

4 THE CHAIRMAN: Delegate Hardwicke.

5 DELEGATE HARDWICKE: I think we may be belaboring
6 something which, the more we discuss it the less important
7 it becomes. It is almost impossible to knock down bugaboos,
8 skeletons, unexpressed and undetermined fears, and
9 authoritative legal opinions not based upon any particular
10 case law, or any particular provision of law, but I want
11 to point out that in 10.01, as amended today, we inserted
12 this language, and listen to it very carefully. This is
13 the amendment that we adopted today:

14 "A law in effect on June 30, 1968, shall not
15 be deemed in conflict with this Constitution solely because
16 it was enacted pursuant to authority granted by provision
17 of the prior Constitution."

18 We adopted this language ---

19 THE CHAIRMAN: Just a second, Delegate Hardwicke.
20 You may proceed.

21 DELEGATE HARDWICKE: We adopted this language

1 for this kind of problem, and it was our express intention
2 that where a statute gave a procedure, set up a mechanism,
3 that simply because that mechanism or procedure was adopted
4 pursuant to a provision of the prior Constitution, that
5 the mechanism or procedure was not invalidated and was
6 not in any way less lawful under the new Constitution.

7 Frankly, I am perfectly satisfied that the
8 thing probably doesn't do anything, but in the final analysis
9 if you vote it in you are just cluttering up the
10 Constitution. I think we could have put in a dozen or more
11 provisions like it on the same philosophy of scare, fear,
12 fright, that we might be leaving something out, and I still
13 oppose the amendment.

14 THE CHAIRMAN: Are you ready for the question?
15 Delegate Clagett.

16 DELEGATE CLAGETT: I have one question to ask
17 the Chair:

18 Is it not true that by Article 23(a), which
19 incorporates 11(e) of the Constitution, and where we keep
20 23(e) alive, but likewise keep alive those provisions which
21 are incorporated in it from 11(e)?

1 THE CHAIRMAN: I don't know that the Chair
2 would want to answer that question just with a bald "yes"
3 or "no", Delegate Clagett. I don't believe it is the kind
4 of question you can give a general answer to. It may or
5 may not be true. I think we should vote on the question.

6 The Clerk will ring the quorum bell.

7 The question arises on the adoption of amendment
8 12. A vote Aye is a vote in favor of the amendment. A
9 vote No is a vote against.

10 Cast your votes.

11 Has every delegate voted? Does any delegate
12 desire to change his vote?

13 The Clerk will record the vote.

14 There being 88 votes in the affirmative, and
15 12 in the negative, the motion is carried. The amendment
16 is adopted.

17 The Chair recognizes Delegate Freedlander.

18 DELEGATE FREEDLANDER: A point of personal
19 privilege, Mr. Chairman.

20 THE CHAIRMAN: State the privilege.

21 DELEGATE FREEDLANDER: I would like this body

1 to welcome someone in the balcony facing the Chair who
2 has more than a passing interest in our work, Dr. John E.
3 Bebout who, as you know, is Director of the Urban Study
4 Center of Rutgers University. He was consultant to
5 conventions in New Jersey, Alaska, Connecticut, Rhode
6 Island, and was Director of the Commission on the
7 Simplification of the New York Constitution in 1958-1960.

8 I would like you to give him a hearty welcome,
9 please (Applause).

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1 THE CHAIRMAN: Are there any other amendments
2 to Section 33?

3 Section 34?

4 Section 35?

5 (No response)

6 Are there any further amendments of any kind
7 in the Schedule of Legislation?

8 (No response)

9 THE CHAIRMAN: If not, the question arises
10 on the approval of the Schedule of Legislation comprising
11 pages 15 to 30 of Committee Recommendation GP-13, with the
12 exception of Sections 21, 22, and 23. Is there any
13 discussion?

14 A vote Aye is a vote in favor of the approval
15 of this schedule, with the exceptions noted. A vote No
16 is a vote against.

17 Cast your votes.

18 Has every delegate voted?

19 Does any delegate desire to change his vote?

20 The Clerk will record the vote.

21 There being one hundred votes in the affirmative

1 and none in the negative, the motion is carried. The
2 Schedule of Legislation, with the exceptions of Sections
3 21, 22, and 23 are approved.

4 We will suspend consideration, further consideration,
5 at this time of Committee Recommendation GP-13.

6 The Chair recognizes Delegate Powers.

7 DELEGATE POWERS: Mr. Chairman, I move the
8 Committee of the Whole rise and report the adoption of
9 Committee Recommendation No. GP-13 as amended, excepting
10 Sections 30, Transitional Provisions, and Sections 21, 22,
11 and 23 of the Schedule of Legislation.

12 THE CHAIRMAN: Is there a second?

13 (Whereupon, the motion was seconded.)

14 THE CHAIRMAN: All in favor signify by saying
15 Aye: contrary No.

16 The Ayes have it. It is so ordered.

17 (The mace was replaced by the Sergeant at Arms.)

18 (Whereupon, at 11:05 p.m., the Committee of
19 the Whole arose, and the Convention reconvened.)

20 THE PRESIDENT: The Convention will please come
21 to order. On behalf of the Committee of the Whole, the

1 Chair reports that the Committee of the Whole has
2 approved the schedule in Committee Recommendation No. GP-
3 13 except Section 30 of the Schedule of Transitional
4 Provisions and Sections 21, 22, and 23 of the Schedule of
5 Legislation, as amended, and with the exceptions noted
6 recommends that the schedules be adopted.

7 The Chair recognizes Delegate Powers.

8 DELEGATE POWERS: Mr. President, I move that the
9 rules be suspended so that we may consider Committee
10 Recommendation No. GP-13, with the exceptions previously
11 noted on second reading.

12 THE PRESIDENT: Is there a second?

13 DELEGATE BENNETT: Second.

14 (Whereupon, the motion was seconded.)

15 THE PRESIDENT: The motion is seconded.
16 Suspension of the rules requires a roll call vote. Is
17 there any question?

18 The question arises on suspension of the rules
19 to permit immediate consideration without reference to
20 the Committee still drafting an arrangement of Committee
21 Recommendation GP-13 with the exception of Section 30,

1 Schedule of Transitional Provisions, and Sections 21,
2 22, and 23 of the Schedule of Legislation.

3 A vote Aye is a vote in favor of suspension
4 of rules: a vote No is a vote against.

5 Cast your votes.

6 Has every delegate voted?

7 Does any delegate desire to change his vote?

8 The Clerk will record the vote.

9 There being one hundred and two votes in the
10 affirmative and none in the negative, the rules are
11 suspended.

12 The question arises on the adoption on second
13 reading of Committee Recommendation GP-13 as amended, with
14 the exception of Section 30 of the Schedule of Transitional
15 Provisions, and Sections 21, 22, and 23 of the Schedule
16 of Legislation. Are you ready for the question?

17 The Clerk will ring the quorum bell, please.

18 The question arises on the adoption of Committee
19 Recommendation GP-13 as amended with the exception of
20 Section 30 of the Schedule of Transitional Provisions and
21 Sections 21, 22, and 23 of the Schedule of Legislation.

1 A vote Aye is a vote in favor of the adoption on
2 second reading of the Committee Recommendation, with
3 the exceptions noted. A vote No is a vote against.

4 Cast your votes.

5 Has every delegate voted?

6 Does any delegate desire to change his vote?

7 The Clerk will record the vote.

8 There being one hundred votes in the affirmative
9 and none in the negative, the Committee Recommendation
10 GP-13, as amended, with the exception of Section 30,
11 Schedule of Transitional Provisions, Sections 21, 22, and
12 23 of the Schedule of Legislation is adopted on the second
13 reading and is referred to the Committee on Style,
14 Drafting, and Arrangement.

15 The pages will please distribute Amendment O,
16 as in "oboe". Amendment O will be Amendment No. 12.

17 The Chair recognizes Delegate Koss for the
18 purpose of moving the suspension of rules to permit
19 moving a suspension of the interferring rules, to permit
20 consideration of Amendment 12 to amend Section 2.14 of
21 the Constitution as adopted on second reading.

1 Delegate Koss.

2 DELEGATE KOSS: Mr. Chairman, I so move.

3 THE PRESIDENT: Is there a second?

4 (Whereupon, the motion was seconded.)

5 THE PRESIDENT: Pages, please collect that
6 amendment. That is the wrong oboe.

7 Delegate Koss.

8 DELEGATE KOSS: Mr. Chairman, in stating the
9 motion, you referred to an amendment of 214. It is to
10 add a Section 214.

11 THE PRESIDENT: Thank you.

12 For what purpose does Delegate Moser rise?

13 DELEGATE MOSER: In the interim while they
14 were distributing the last amendment, I simply wanted
15 to, as the last person who last argued hard and long with
16 Delegate Hardwicke, to ask the Chair's commendation of
17 him and his Committee, which worked long and hard over
18 weekends when many of us were not here, to produce such a
19 fine job of Transitional Provisions.

20 THE PRESIDENT: I think --

21 (Applause)

1 THE PRESIDENT: I think that is a tribute
2 well deserved and should extend also to members of the
3 staff who worked with Delegate Hardwicke. I think very
4 few of you, with the exception of the Committee Chairman,
5 have any real appreciation of the number of hours of
6 work which went into the preparation of the document, and
7 I think probably the real tribute to Delegate Hardwicke
8 and the Committee Chairman and the staff members who
9 worked on it is the fact that this Convention has been
10 able to consider and act upon that thirty-page document
11 in the relatively limited period of time in which we have
12 been able to act.

13 The Chair adds its thanks to both Delegate
14 Hardwicke and the staff members.

15 (Applause)

16 THE PRESIDENT: The question arises on the
17 motion to suspend interfering rules to permit consideration
18 of Amendment 12 to add Section 14 to Article 2 of the
19 Constitution as adopted on second reading. This is a
20 suspension of rules. A roll call vote is necessary.
21 Any delegates who do not have a copy of the amendment?

1 A vote Aye is a vote in favor of the suspension
2 of the rules and a vote No is a vote against.

3 Cast your votes.

4 Has every delegate voted?

5 Does any delegate desire to change his vote?

6 The Clerk will record the vote.

7 There being ninety-seven votes in the
8 affirmative and none in the negative, the motion is
9 carried. The interferring rules are suspended.

10 The question now arises on the adoption of
11 Amendment No. 12 to add Section 214 to Article 2 of the
12 Constitution. The amendment is submitted by Delegate
13 Koss, seconded by the co-sponsors. The Chair recognizes
14 Delegate Koss.

15 DELEGATE KOSS: Mr. President, fellow delegates,
16 I hone at this point we don't regret the decision --

17 THE PRESIDENT: May I interrupt, Delegate Koss?

18 I am reminded the Clerk hasn't read it across
19 the desk. The Clerk will read the amendment.

20 MR. QUILLEN: Amendment No. 12, as amended by
21 Report No. S&D-11, to Committee Recommendation No. S&E-1

1 and S&E-2 by Delegates Koss, Moser, Abramson, Baumann,
2 Byrnes, Cardin, Case, J. Clark, Frederick, Hutchinson,
3 Marion, D. Murray, Pascal, Rybczynski, Schloeder, Soul,
4 and White: On page 5 following line 28 of Section
5 2.13. Effect of Referendum insert the following new
6 section:

7 "Section 2.14. Referenda on Laws Applicable
8 in Only One County.

9 The General Assembly shall prescribe by law
10 procedures by which a law enacted by it and applicable
11 in only one county may be petitioned to referendum.
12 The law shall be submitted to a vote of the people of
13 the named county after a petition has been signed by a
14 number of qualified voters equal to at least ten per cent
15 of the total votes cast for Governor in that county in
16 the most recent gubernatorial election. No law empowering
17 a county to exercise a power or perform a function, nor
18 any law pertaining to appropriations, or granting, limiting
19 or withdrawing the taxing power of a county shall be subject
20 to referendum pursuant to this section."

21 THE PRESIDENT: Delegate Koss.

1 DELEGATE KOSS: Mr. President, fellow delegates,
2 I hope at this point we don't regret having agreed to
3 correcting the designation of our Committee as the
4 Committee on Suffrage.

5 First, may I ask unanimous consent in line 11
6 to strike the word "named". That was an error in typing
7 and retyping.

8 THE PRESIDENT: Is there any objection to
9 striking from line 11 of the amendment the word "named"?

10 The Chair hears none. Consent is given. The
11 modification is made.

12 DELEGATE KOSS: At the time that S&E-1 came
13 to the floor, its accompanying memorandum stated that the
14 consideration of the referendum and the recommendations
15 of the Committee were based on the assumption that the
16 legislature may pass only public general laws.

17 In terms of the action of this Convention on
18 Section 3.23, we now know that the General Assembly can
19 pass laws which could apply to one or more counties. In
20 view of the fact that our original recommendation contained
21 no provision for referring laws that were applicable to

1 only one county, we are now proposing to include in the
2 Constitution a provision which would take care of that
3 situation.

4 The percentage requirement in proposed Amend-
5 ment 12 is the same as in the present Constitution. It
6 also includes in this Amendment No. 12 the same limitations
7 on the referendum in terms of taxing power or law pertaining
8 to an appropriation as is appropriate to state-wide laws.

9 I sincerely hope for your support of this.

10 THE PRESIDENT: Any questions of the sponsor
11 of the amendment?

12 Delegate Sollins.

13 DELEGATE SOLLINS: Delegate Koss, I note that
14 in the exceptions, beginning on line 15, you do not
15 include legislative apportionment and districting or
16 congressional districting. I bring this up because as I
17 read this it says the General Assembly shall prescribe by
18 law procedures by which a law enacted by it and applicable
19 in only one county.

20 I could foresee a situation where a legislative
21 districting law would be applicable only in one county,

1 even though several counties may be covered. I just
2 suggest that perhaps it might be appropriate to include
3 that language to avoid any confusion there.

4 THE PRESIDENT: Delegate Koss.

5 DELEGATE KOSS: First of all, it would seem
6 to me that any law providing for a congressional districting
7 or for reapportionment would be a public general law. I
8 can't conceive of one which would apply to only one
9 county and be considered a local law.

10 Districting of a county for the purposes of
11 electing county officials would be subject to whatever
12 referendum its local instrument of government provided.
13 I assumed you were referring to congressional districting
14 or districting of the General Assembly.

15 THE PRESIDENT: Delegate Sollins?

16 DELEGATE SOLLINS: I do not note from the
17 language of the amendment that it says specifically local
18 laws. It merely says the General Assembly shall prescribe
19 by law procedures by which a law enacted by it and
20 applicable only in one county.

21 I suggest that there is this possibility, a

1 remote situation admittedly, but very possible occurrence
2 where a county may not be satisfied with the redistricting
3 procedure established by the General Assembly, and may
4 desire to petition that particular portion of the law to
5 referendum.

6 THE PRESIDENT: Delegate Koss.

7 DELEGATE KOSS: It would seem to me that
8 in order for it to be subject to referendum under this
9 proposed 2.14, it would have to be a law -- I can't
10 conceive of the possibility of a redistricting law
11 applicable only in one county.

12 THE PRESIDENT: Delegate Sollins.

13 DELEGATE SOLLINS: Chairman Koss, would you
14 accept an amendment to your proposal here, adding "legis-
15 lative apportionment and districting or congressional
16 districting"?

17 THE PRESIDENT: Delegate Koss.

18 DELEGATE KOSS: Delegate Sollins, I am not
19 convinced that it is necessary. Certainly it was not the
20 intent, but I am not convinced that that kind of additional
21 language is necessary.

1 THE PRESIDENT: Delegate Sollins.

2 DELEGATE SOLLINS: I have a question in another
3 area, Mr. Chairman.

4 THE PRESIDENT: All right.

5 DELEGATE SOLLINS: May a local law as you
6 describe it still be petitioned to referendum statewide
7 as provided in Section 2.10?

8 THE PRESIDENT: Delegate Koss.

9 DELEGATE KOSS: How do you define "local law"?

10 THE PRESIDENT: Delegate Sollins.

11 DELEGATE SOLLINS: As you have defined it, one
12 county.

13 THE PRESIDENT: Delegate Koss.

14 DELEGATE KOSS: Theoretically, yes. Practically,
15 I am in doubt.

16 THE PRESIDENT: Delegate Cardin?

17 DELEGATE CARDIN: Mr. President, I was going
18 to answer our interpretation of Delegate Sollins' question.
19 We are under the impression that laws that are subject to
20 referendum would be those laws which are subject, with
21 the restrictions applicable in Section 2.10, legislative

1 apportionment, appropriations, taxation, et cetera, are
2 not laws that are subject to referendum at any time.

3 THE PRESIDENT: Delegate Lord.

4 DELEGATE LORD: Mr. President, I have a further
5 question of Chairman Koss.

6 THE PRESIDENT: Very well. State the question.

7 DELEGATE LORD: Chairman Koss, it is my
8 understanding that this section was written so as to allow
9 local referenda, particularly for the public local laws
10 or their successors, which are the exceptions in Section
11 3.23. Is that correct?

12 THE PRESIDENT: Delegate Koss.

13 DELEGATE KOSS: That is correct.

14 THE PRESIDENT: Delegate Lord.

15 DELEGATE LORD: Well, if that is the case, I
16 am a little puzzled as to why the section is not tied
17 back to those exceptions rather than, say, a law applicable
18 in only one county, because it seems to me that you can
19 very well have such a public local law that may be applic-
20 able in an area and not just in one county. I would
21 assume that you would intend such a law to be petitioned

1 on referendum under this section and, yet, by strict
2 reading of the words, I am not sure it would be.

3 THE PRESIDENT: Delegate Koss.

4 DELEGATE KOSS: Delegate Lord, I think you
5 assumed our intention. Any law under the current Consti-
6 tution which affects more than one county is referrable
7 only as a public general law. It was our intention
8 to continue that.

9 THE PRESIDENT: Delegate Lord, the intent was
10 exactly the converse of what you suggested. The
11 intent here was to have referendum locally only of a law
12 applicable to one county only.

13 If a law was applicable to anything more than
14 one county, it would be referrable only under Section
15 2.10 on a statewide basis.

16 THE PRESIDENT: Delegate Lord.

17 DELEGATE LORD: Mr. President, maybe I had
18 better address this question to you. Would this mean
19 that if a law has some effect outside of one county that
20 the only way that this law could be knocked out would
21 be by statewide referendum?

1 THE PRESIDENT: That is correct.

2 Delegate Case.

3 DELEGATE CASE: No.

4 THE PRESIDENT: Delegate Pullen?

5 DELEGATE PULLEN: Mr. Chairman, I think it
6 is perfectly obvious what Delegate Koss is trying to do.
7 I think we discussed that last night, Clagett versus
8 Case, and I approve of the idea.

9 The only question I have to ask is why ten
10 per cent in this case when we put five per cent, I think,
11 in the statewide referendum. Is that not correct?

12 THE PRESIDENT: Delegate Koss.

13 DELEGATE KOSS: Delegate Pullen, that is
14 correct. We are just continuing the requirements in the
15 present Constitution.

16 THE PRESIDENT: Because you are dealing with a
17 smaller area, smaller group of people, Delegate Pullen.
18 One you are dealing statewide and the other you are
19 dealing with the county.

20 Delegate Pullen.

21 DELEGATE PULLEN: I accept either answer, but

1 not the logic, sir.

2 THE PRESIDENT: Very well.

3 Delegate Willoner.

4 DELEGATE WILLONER: Delegate Koss, why did
5 you leave out the Section 8 of the 3.23, that no law
6 empowering a county to exercise a power or perform a
7 function is petitionable to referendum?

8 THE PRESIDENT: Delegate Koss.

9 DELEGATE KOSS: It was the assumption that
10 unless that were implemented by the local governing
11 body, that it would be petitionable, according to the
12 charter when it was implemented by local governing body.

13 THE PRESIDENT: Any further discussion?

14 Delegate Bamberger?

15 DELEGATE BAMBERGER: Mr. Chairman, I would
16 appreciate it if some of the sponsors of the amendment
17 would explain to us the rationale behind what I understand
18 from the Chair and from Delegate Koss is the effect of
19 this. If, for instance, there is a law which applies to
20 some multi-county governmental unit, or which affected, let
21 us say, only two counties, why should that be referred to

1 a statewide referendum where the result might be that the
2 people in those two counties, which are affected, would
3 be overwhelmingly in support of it, but it might lose by
4 a vote in the statewide referendum?

5 THE PRESIDENT: Delegate Koss, do you desire
6 to answer?

7 DELEGATE KOSS: Well, the general rationale
8 for this was, as I pointed out before, to continue the
9 existing provisions. I admit that we had not had the
10 opportunity to hold hearings on this, but we had not received
11 any evidence either that this has done any great disservice
12 to any part of the state that had law imposed upon it,
13 which was to the detriment, and it had no opportunity to
14 so sav.

15 THE PRESIDENT: Delegate Bamberger, I think
16 there is an addition which may be made to Delegate Koss'
17 answer, and that is that the whole philosophy of the
18 Constitution drafted by this Convention is to confine the
19 General Assembly to laws of statewide import, and
20 obviously such laws should be referrable only on a state-
21 wide basis. The exemptions to that principle, that is,

The first part of the paper discusses the importance of the study and the objectives of the research.

The second part of the paper describes the methodology used in the study and the data collection process.

The third part of the paper presents the results of the study and discusses the findings.

The fourth part of the paper discusses the implications of the study and the conclusions drawn from the research.

The fifth part of the paper discusses the limitations of the study and the areas for future research.

The sixth part of the paper discusses the contributions of the study to the field of research.

The seventh part of the paper discusses the practical applications of the study and the recommendations for practice.

The eighth part of the paper discusses the overall findings of the study and the conclusions drawn from the research.

1 the power of the General Assembly to act other than
2 on a statewide basis are limited to a few very definite
3 areas spelled out in Section 3.23, and it was deemed
4 proper to permit a local referendum on the exercise
5 of a power in one of those eight areas in 3.23 if the
6 law was applicable only to one county, but the law's
7 application stretched beyond one county. Then it became
8 one of statewide import, and obviously this line can't
9 be drawn hard and fast. There are gray areas, but, for
10 instance, a law providing for some sort of multi-county
11 government would be deemed to be one not referable only
12 to the people of the area involved, but a statewide
13 question.

14 Delegate Case.

15 DELEGATE CASE: Mr. Chairman, that is absolutely
16 correct, with one slight caveat. You remember that when
17 the local government section was before the Committee of
18 the Whole and later the Convention, the question of
19 referendum on questions involving multi-county governmental
20 units was much debated, and you will also recall that we
21 adopted an amendment to what is now Section 7.08, which

1 provides an exception to the exception, and that is that
2 the General Assembly may provide on any law related to
3 this subject for the referendum procedure in that particular
4 area so that what you have here is, as the Chairman stated,
5 an absolute right of referendum statewide, and a provision
6 giving the General Assembly the right, notwithstanding
7 that, to provide for any suitable referendum it deems
8 appropriate in that particular case.

9 THE PRESIDENT: Delegate Bamberger.

10 DELEGATE BAMBERGER: If we adopt Amendment 12,
11 then I doubt that under Section 7.08 the General Assembly
12 could provide for referendum in less than the whole
13 state. It does seem to me now that Delegate Case points
14 out a conflict between 7.08 and 12, and Amendment No. 12.

15 THE PRESIDENT: Delegate Case.

16 DELEGATE CASE: Not at all, Delegate Bamberger.
17 The amendment that is before you, Amendment No. 12,
18 applies where there is only one county involved. It
19 does not apply where you have a multi-county, which
20 means more than one county, a multi-county governmental
21 unit.

1 Where you have a multi-county governmental
2 unit dealing with more than one county, then it would
3 have, as I said earlier, the general provision for statewide
4 referendum, and/or the absence of that, the provisions of
5 7.08.

6 THE PRESIDENT: Delegate Sollins.

7 DELEGATE SOLLINS: A question to the Chair,
8 please. I think what this amendment is directed at are
9 the exceptions contained in Section 3.23, those dealing
10 with public education and natural environment and
11 resources. Those are the only two occasions that I could
12 see where that would be, this referendum could be
13 applicable, and I wonder if perhaps the Style Committee
14 could not -- I see Delegate Penniman wince. I am sorry.
15 -- could not perhaps redraft this to incorporate the
16 language in 3.23 in an appropriate manner and solve this
17 problem.

18 THE PRESIDENT: The effort has been made to
19 do this for considerable time today, and it was thought
20 it had been accomplished in the latter part of this
21 section.

1 Delegate Case.

2 DELEGATE CASE: Delegate Sollins, the language
3 is taken right out of what is now Section 3.23. That is
4 where the language came from.

5 THE PRESIDENT: Delegate Koss.

6 DELEGATE KOSS: I might say also that while,
7 as Delegate Case indicated, that the language was taken
8 out, at least the last part of it, 3.23, the reason that
9 those two exceptions were not made specifically is that
10 this is a constitution and the Constitution is subject
11 to amendment, and we wanted to write this in a lasting
12 fashion if we could.

13 THE PRESIDENT: Delegate Jett.

14 DELEGATE JETT: I move the previous question.

15 THE PRESIDENT: Are you ready for the question?

16 Delegate Jett, will you withdraw your motion
17 so we can save some time? We are ready for the
18 question.

19 Delegate Macdonald.

20 DELEGATE MACDONALD: Mr. Chairman, fellow
21 delegates, I have a lot of trouble with this amendment. I

1 think it was designed, as was pointed out, to accommodate
2 some of the situations which are outlined in Section
3 3.23, and I suppose it would accommodate a law pertaining
4 to public education or a law pertaining to natural
5 environment and resources, but I submit to you that
6 under Section 3.23, a law on either on those subjects
7 would cover one county, cover two counties, it could
8 cover ten counties, and it would not necessarily be
9 confined to one county.

10 Also, in the amendment on lines 15, 16, and
11 17, it says no law empowering a county to exercise a
12 power or perform a function, et cetera, shall be subject
13 to referendum.

14 Now, unless this is ready in connection with
15 Section 2.23, and there is no compulsion in connection
16 with the section itself that it must be read in connection
17 with Section 2.23, that part empowering the county to
18 perform a function, it seems to me could cover a whole
19 variety of situations, and would simply be a trouble
20 maker, a litigation maker.

21 It would raise the question whether the law

1 was subject to referendum or not, and I am going to have
2 to vote against this section. I think it is too vague
3 and too ambiguous.

4 THE PRESIDENT: Delegate Case.

5 DELEGATE CASE: So that the record can be
6 absolutely clear, and to allay, if possible, the fears
7 of Delegate Macdonald, this amendment dovetails consistently
8 and absolutely with Section 3.23. The language in the
9 excepting sentences that you referred to are the words
10 of Section 3.23, so that if any court has any question
11 about the fact that these two sections should be ready
12 to go, let them read this record and decide the case
13 accordingly.

14 THE PRESIDENT: Delegate Morgan.

15 DELEGATE MORGAN: I move the previous question.

16 THE PRESIDENT: Is there a second?

17 DELEGATE CASE: Second.

18 (Whereupon, the motion was seconded.)
19
20
21

1 THE PRESIDENT: The question arises on the motion
2 to order the previous question on adoption of Amendment No.
3 12.

4 All in favor, signify by saying Aye; contrary, no.
5 The Ayes have it. So ordered.

6 The question arises on the adoption of Amendment
7 12. A vote Aye is a vote in favor of the amendment; a vote
8 No is a vote against.

9 Cast your votes.

10 Has every delegate voted?

11 Does any delegate desire to change his vote?

12 The Clerk will record the vote.

13 There being eighty-two votes in the affirmative
14 and eleven votes in the negative, the motion is carried.
15 The amendment is adopted.

16 Will you please get before you the tanned copies
17 distributed to you today? I can call to your attention some
18 correcting pages.

19 While you are doing that, let me take the
20 opportunity to clarify a matter as to which a number of
21 delegates have inquired, either of the Chair or the

1 Parliamentarian.

2 Yesterday and today we have on three different
3 occasions I think suspended interring rules in order to
4 re-consider items adopted on second reading, and then have
5 adopted amendments.

6 The question has been asked, why was it not
7 necessary to read the Committee Recommendation again on
8 second reading.

9 If you will recall when the Chair first started
10 to put the question to you the first time it arose, I did
11 so in a rather involved manner, by suggesting a suspension
12 of eules to re-consider the vote by which the Committee
13 Recommendation was adopted on second reading in order to
14 re-consider the vote by which an amendment was adopted or
15 rejected.

16 Had that procedure been followed, it would have
17 been necessary to go back twice and then forward twice
18 and have a second reading again.

19 The Parliamentarian suggested instead the
20 device which we have used, to suspend the interferring
21 rules, to permit consideration, after second reading, of

1 a section adopted on second reading, so that we have not been
2 undoing what was done on second reading. We have merely
3 been amending the rules which would provide that we go
4 direct from second reading to third reading without an
5 amendment so as to permit an amendment inbetween.

6 Therefore, what we have been doing is amending
7 sections adopted on second reading without going back to
8 second reading.

9 Now, if you will get in front of you page 1-1,
10 there were a number of errors. Pages 1-1 and 1-2 have
11 been corrected and re-printed. You should have on your
12 desk now the corrected page. They will be distributed
13 right now. You can substitute it. So that there will be
14 no confusion, tear up your existing page 1-1, on the back
15 of which is 1-2. Just tear it up.

16 The pages will also distribute to you corrected
17 pages 2-1 and 2-1A. Take out of your book pages 2-1 and
18 2-2. That is one sheet. Tear it, and substitute for it,
19 two sheets, marked 2-1, 2-1A, 2-2.

20 You also received page 7-3. Take out your page
21 7-3. Destroy it. You will receive a new one. Destroy 7-3.

1 You will get a new one. Destroy all your page 1-3 and 1-4.

2 Let me go back over it. These are the pages to
3 be destroyed. 1-1 and 1-2. That is one sheet. 1-3 and
4 1-4, is one sheet. 2-1 and 2-2 is two sheets, I mean one
5 sheet. You will receive two sheets, marked 2-1, 2-1A and
6 2-2, and 7-3. It has nothing on the back.

7 One other sheet to be destroyed, 3-1, on the
8 back of which is 3-2.

9 You should have, in order to have the complete
10 Constitution, five sets.

11 The first has Constitutional Convention
12 memorandum as the heading, marked, Draft Constitution.
13 That comprises Articles 1, 2; secondly, Article 3; thirdly,
14 Article 4; fourthly, Articles 5, 6, 7, and 8; and lastly,
15 Articles 9 and 10.

16 Now, will you please follow me for a few
17 minutes?

18 There are a few errors which you can correct
19 very readily with pencil. Will you please follow me?

20 Page 1-3, line 42, take out the comma after the
21 word "six", strike the comma after "six", line 42, page 1-3.

1 Page 6-1, line 15, strike the "S" on "govern-
2 ments", line 15, page 6-1.

3 Page 1-4, strike the caption in line 39, Article
4 1, Declaration of Rights. Strike the entire caption,
5 page 1-4, line 39-40, strike the Article 1, Declaration of
6 Rights caption.

7 Page 3-8, line 37, strike the caption, Article
8 3, Legislative Branch; page 3-8, line 37, strike the
9 caption, which is Article 3, Legislative Branch.

10 Page 9-2, lines 1 and 2, strike the caption,
11 Article 8, General Provisions, Intergovernmental Coopera-
12 tion; page 9-2, strike the caption in lines 1 and 2.

13 Page 9-4, line 17, strike the caption, Article 8,
14 General Provisions.

15 DELEGATE JAMES: Mr. President, can you give us
16 a memorandum on this?

17 THE PRESIDENT: All right. We will get it out
18 to you tomorrow.

19 There is one more. That is it.

20 We will reproduce the memorandum and leave it
21 on your desks.

1 I had given you all the corrections, but you
2 can check them against the memorandum.

3 You now have properly substituted the pages and
4 corrections. You now have a complete copy of the Constitu-
5 tion as amended on second reading and as amended yesterday
6 after second reading, but not including the additional
7 amendment adopted tonight by the addition of Section 2.14.
8 Other than that, you have the complete edition.

9 Delegate Lord.

10 DELEGATE LORD: Mr. President, while we are
11 making corrections, I have just been talking to Chairman
12 Penniman and I think on page 8-1, line 32, there is a minor
13 change. The third word on that line is the word "the" in
14 italics. I think it should be "there".

15 THE PRESIDENT: What line?

16 DELEGATE LORD: Line 32, and then the following
17 word "fund". That is all right. Then the word "thereof"
18 should be stricken, 8-1.

19 THE PRESIDENT: I think you are quite right,
20 Delegate Lord. I think the confusion came about because
21 the words "the fund thereof" changed to "their fund" was on

1 one line and we restored the following line.

2 In a few minutes I think Delegate Penniman will
3 indicate to the Committee on Style how many hours and
4 minutes of sleep they will have tonight. The rest of you
5 will have all of tomorrow morning to have carefully read
6 over the draft Constitution which you have adopted in the
7 past weeks, and see if it all hangs together.

8 There are a few loose ends to pick up in
9 connection with the Constitution, the enacting clause,
10 which I hope to have here for you tomorrow. There are some
11 resolutions to act upon, post-Convention operations. There
12 are several resolutions expressing appreciation. There are
13 a number and similar such matters.

14 I think we could easily conclude everything
15 that need be concluded, including the sections of the
16 schedule of transitional provisions and legislation which
17 we passed over this evening in several hours, but we are
18 anxious to conclude in any event by 4 o'clock, and I have
19 suggested to Delegate Powers that we convene tomorrow at 1,
20 which gives us a little leeway. I think we should finish
21 certainly by 3, but in any event by 4.

1 I think we will be in a position to take the
2 final votes on Saturday. This means the mechanical problem
3 of having everything which you have before you now checked,
4 doublechecked, and triplechecked again, and this is one
5 reason I ask each of you to go over it carefully and if you
6 note any correction at all that need be made, I think it
7 would be helpful and sort of centralize it if you let
8 Lenny Harkenhorn who has been working here with me on this
9 know and he will see that it gets to the proper persons.

10 If we are able to do this and get the corrected
11 copies reproduced, and I would hope to have before you not
12 only this copy showing changes, but a clean copy, that is,
13 one that doesn't show the strikeouts and the inserts, so
14 that you can read it for sense very simply, ready for you
15 by early Saturday morning, I would hope we could start a
16 session on final votes at 10 o'clock Saturday morning.

17 If we have difficulty in accomplishing this,
18 we should know by the time we are in session tomorrow
19 afternoon and can let you know at that time.

20 Assuming that we are able to conclude final
21 voting on Saturday, it would probably be Wednesday rather

1 Tuesday that we would have the signing ceremony. The
2 reasons for this, of course, are mechanical, not merely
3 the final check, but it is having the copy to be signed
4 properly printed. It will be printed in proper form on
5 parchment, bound, and several copies ready for execution.
6 While there is no requirement in the enabling act that the
7 Constitution be signed by all delegates, the officers felt,
8 as announced some weeks ago, that all the delegates would
9 certainly want to have their signatures appended to the
10 Constitution and arrangements have been made accordingly
11 to do this.

12 There has been considerable discussion as to
13 where the signing should take place. Some feel that since
14 all of our endeavors have been in this chamber that we
15 should have it in this chamber. Considerable feeling is also
16 expressed for having the signing in the old Senate chamber,
17 which is replete with so much in the way of tradition and
18 history.

19 We are trying to ascertain whether it is possible
20 to have the ceremony in the old Senate chamber. When I
21 say possible, I mean to arrange for the filming, that is,
the official filming for the Convention itself, the

1 Archives, but in addition to that coverage by all five TV
2 stations. This has meant some investigation of the
3 gallery in the old Senate chamber to see that it is strong
4 enough to support the cameras, equipment, etc.

5 These decisions have not yet been made. In all
6 probability, if we can use the old Senate chamber, we may
7 do so, but there can be no assurance that this is likely.
8 There are disadvantages with the entire Convention in
9 there to sign. There would be practically no room for
10 sightseers, except of course, through the eyes of the
11 television cameras.

12 On the other hand, if the signing takes place
13 in this chamber the two galleries are available. If the
14 signing takes place in this chamber we would propose to
15 have a desk for delegates to sign placed up here in the
16 front aisle so that the delegates would be able to sit
17 down and sign in their handsomest style, preserved for
18 posterity in all of its charm, if it is charming, and in
19 addition we would hope to be able to so arrange the table
20 that for those delegates who wanted it, we could have
21 individual photographs of them signing the Constitution.

1 This poses a problem. Some delegates would
2 want members of their family or others to come up and take
3 the photograph. Obviously, this cannot be arranged for all
4 delegates. We are exploring the possibility of having a
5 photographer here who would be behind the desk, and for any
6 who want it for a fee could snap their picture as they sign.

7 I am not sure at the moment how many copies.
8 There will certainly be at least two, perhaps three copies
9 to be signed.

10 We will endeavor to have available at that time
11 sufficient additional printed copies that each delegate
12 could have as his personal keepsake one of the original
13 prints. The type size is planned to be a little larger than
14 the normal size because of the character of the document.
15 We are trying to get a type that is not just ordinary
16 boiler plate type which you are accustomed to see, but
17 something with a little distinction.

18 All of these things take time, problems, and
19 planning, and are not going to be accomplished in a matter
20 of twenty-four hours.

21 It is absolutely imperative that the document

1 be proof read and checked to the N'th degree, and this is
2 probably the most important thing of all that would cause
3 delay.

4 Accordingly, I would suggest that you plan on
5 Wednesday rather than Tuesday as the time of signing.
6 I say this notwithstanding the fact that we are fully
7 conscious, of course, of the Governor's Reception and the
8 buffet for all the delegates is scheduled for Tuesday
9 evening and it would be nice to have everything the same
10 day. If we can, we will, but of paramount importance is
11 having the document absolutely correct.

12 I think I have covered all of the procedural
13 matters that are in contemplation, but if there are any
14 questions we can try to clear them up now.

15 Delegate James.

16 DELEGATE JAMES: Mr. Chairman, I have had a
17 little experience in the old Senate chamber and I am just
18 positive it is not big enough.

19 THE PRESIDENT: I am inclined to think that is
20 going to be the answer from many points of view, so I think
21 it will probably be in this chamber. This means, of course,

1 that the signing ceremony is not something that can be
2 accomplished in a few minutes. You will remember how long
3 it took to sign the attest book when you took your oath.

4 In this situation, the actual signing is going
5 to take a little longer. You will sign several. You
6 have to come up, sit down, etc. It is going to be
7 necessary we have the delegates and only the delegates
8 on the floor to prevent confusion.

9 Do not plan to have your pen that you will have
10 as a keepsake. The signing must be done in special ink
11 that will be readable a hundred years from now. We cannot
12 take the chance that somebody has a ballpoint pen or some
13 other type of pen, with some kind of ink that fades out or
14 turns brown or disappears or something of that sort.
15 Special pens will be provided, and I do not think there
16 will be enough pens to be able to give out souvenirs.

17 Are there any other questions?

18 If not, Delegate Powers.

19 Delegate Penniman, I am sorry.

20 DELEGATE PENNIMAN: A bit anticlimatic at this
21 point, but would the members of the Committee on Style meet

1 tomorrow morning at 9:30.

2 THE PRESIDENT: Any other announcements by
3 Committee Chairmen?

4 All delegates who were not present on roll call
5 earlier may indicate their presence on supplemental roll
6 call now.

7 One other announcement that I have to make.
8 Flowers have been sent to -- I am not sure -- but I guess
9 to Cambridge for Delegate Malkus's father. The funeral is
10 Monday at 11 a.m. at -- I don't know whether that is Sanino
11 Funeral Home in Cambridge.

12 The Clerk will record the supplemental roll call.
13 Delegate Powers,

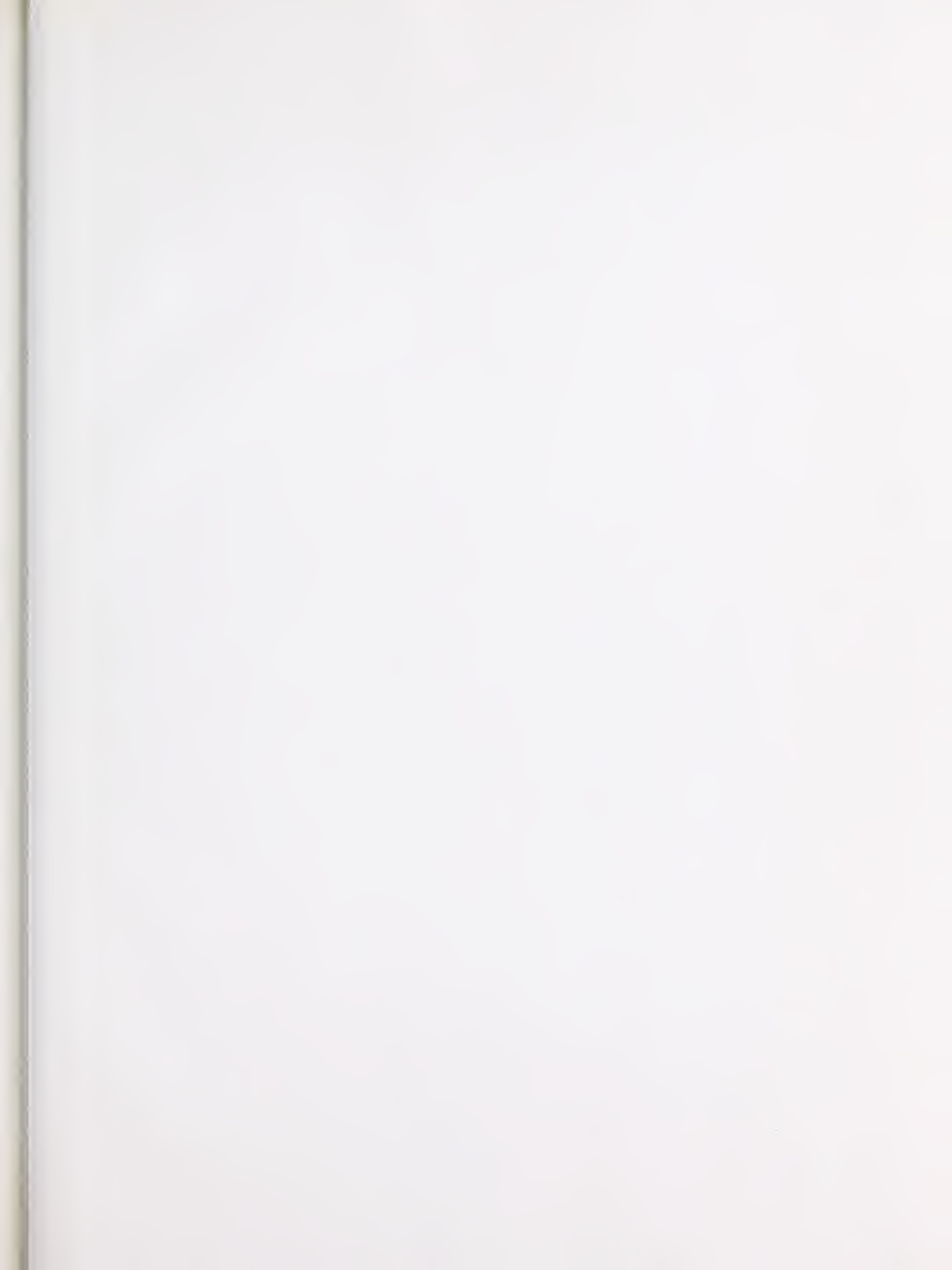
14 DELEGATE POWERS: Mr. President, I move we
15 adjourn until 1 p.m. on Friday, January 5, which happens
16 to be today.

17 THE PRESIDENT: Is there a second?

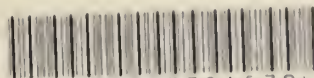
18 All in favor, signify by saying Aye; contrary, no.

19 The Ayes have it. It is so ordered.

20 (Whereupon, at 12:04 a.m., the Convention adjourned
21 until 1 o'clock p.m., Friday, January 5, 1968.)



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